

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

ARTHUR T FLOWERS, JR.
Debtor,

CASE NO. 06-31560
CHAPTER 7
JUDGE WILLIAM R SAWYER

FIA CARD SERVICES, N.A
Plaintiff,

Vs.

Adv. Pro. No. 07-03009

ARTHUR T FLOWERS, JR.
Defendant

DESIGNATION OF THE RECORD ON APPEAL

The Appellant FIA Card Services, N.A. , hereby designates the following pleadings, transcripts and exhibits as the Record on Appeal and requests that the same be transmitted to the United States District Court for the Middle District of Alabama:

BANKRUPTCY OR ADVERSARY	PLEADING DESCRIPTION	PLEADING DOCUMENT NUMBER (IN NUMERICAL ORDER, STARTING WITH LOWEST DOCKET NO.)	PLEADING FILE DATE
Adversary			
	Complaint	1	2/12/2007
	Answer to Complaint	6	3/5/2007
	Order Setting Scheduling Conference	7	3/7/2007
	Answer to Counterclaim	14	4/10/2007
	Order Setting Trial Date Scheduling Order	15	4/10/2007

Motion for Summary Judgment with Exhibit A, Exhibit B Exhibit C and Exhibit D	22	6/5/2007
Order	23	6/7/2007
Response to Motion for Summary on behalf of FIA Card Services, N.A. with Exhibit 1, Exhibit 2, Exhibit 3 and Exhibit 4	25	6/19/2007
Notice of Telephone Hearing	27	7/23/2007
Transcript of Telephone Hearing		8/14/2007
Order to Continue Trial	29	8/20/2007
Memorandum Decision/Opinion	30	9/26/2007
Order Granting Motion for Summary Judgment	31	9/26/2007
Order Granting Attorney Fees	32	9/26/2007
Notice of Appeal	33	10/8/2007

Dated: October 15, 2007

/s/ Barry A. Friedman
Barry Friedman & Associates
Attorney for FIA Card Services, N.A.
257 St. Anthony Street
Mobile, Alabama 36652
(251) 432-2660
bky@bafmobile.com

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
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IN RE:

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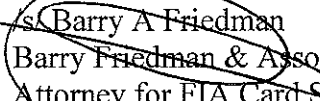
CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2007, I electronically filed the foregoing Paper(s) with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Richard D Barr, Trustee

and I hereby certify that I mailed by United States Postal Service the Paper(s) to the following non-ECF participants:

Dated: October 15, 2007


Barry A Friedman
Barry Friedman & Associates
Attorney for FIA Card Services, N.A.
257 St. Anthony Street
Mobile, Alabama 36652
(251) 432-2660
bky@bafmobile.com

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

ARTHUR T FLOWERS, JR.
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CASE NO. 06-31560
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JUDGE WILLIAM R SAWYER

FIA CARD SERVICES, N.A.
Plaintiff,

Vs.

Adv. Pro. No. 07-03009

ARTHUR T FLOWERS, JR.
Defendant

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

The Appellant FIA Card Services, N.A. hereby designates the following issues on appeal to the United States District Court for the Middle District of Alabama:

DID THE TRIAL COURT ERR IN FINDING THAT
"SUBJECTIVE INTENT" IS NOT A QUESTION OF FACT?

DID THE TRIAL COURT ERR IN FINDING THAT THE FILING
OF THE ADVERSARY PROCEEDING WAS NOT
SUBSTANTIALLY JUSTIFIED?

DID THE TRIAL COURT APPLY THE WRONG STANDARD
FOR JUSTIFIABLE RELIANCE?

DID THE TRIAL COURT ERR IN GRANTING SUMMARY
JUDGMENT IN FAVOR OF THE DEFENDANT?

Dated: October 15, 2007

/s/ Barry A. Friedman
Barry Friedman & Associates
Attorney for FIA Card Services, N.A.
257 St. Anthony Street
Mobile, Alabama 36652
(251) 432-2660
bky@bafmobile.com

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

ARTHUR T FLOWERS, JR.
Debtor,

CASE NO. 06-31560
CHAPTER 7
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FIA CARD SERVICES, N.A.
Plaintiff,

Vs.

Adv. Pro. No. 07-03009

ARTHUR T FLOWERS, JR.
Defendant

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2007, I electronically filed the foregoing Paper(s) with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Gail Donaldson, Attorney for Defendant

and I hereby certify that I mailed by United States Postal Service the Paper(s) to the following non-ECF participants:

Dated: October 15, 2007

/s/ Barry A Friedman
Barry Friedman & Associates
Attorney for FIA Card Services, N.A.
257 St. Anthony Street
Mobile, Alabama 36652
(251) 432-2660
bky@bafmobile.com

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER
PLAINTIFFS FIA Card Services, N.A.	DEFENDANTS ARTHUR T FLOWERS, JR.	
ATTORNEYS (Firm Name, Address, and Telephone No.) Barry Friedman Barry Friedman & Associates 257 St. Anthony Street, P.O. Box 2394 Mobile, AL 36652 251-439-7400	ATTORNEYS (If Known) Gail Donaldson Bond, Botes, Shinn, & Donaldson, P.C. 400 South union Street, Suite 230 Montgomery, AL 36104-4302 334-264-3363	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Trustee <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Other	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> Creditor <input type="checkbox"/> Trustee <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Other	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Claim for Nondischargeability of Debt pursuant to § 523(a)(2)		
NATURE OF SUIT (Number up to five (5) boxes starting with the lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11- Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12- Recovery of money/property - §547 preference <input type="checkbox"/> 13- Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14- Recovery of money/property – other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21- Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31- Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41- Objection / Revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51- Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a),(1),(14),(14A) priority tax claims <input checked="" type="checkbox"/> 62-Dischargeability - §523(a)(2) false pretenses, false representation, Actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: right;">(continued next column)</div>	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61- Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68- Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63- Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64- Dischargeability - §523(a)(15), divorce/sep property settlement/decree <input type="checkbox"/> 65- Dischargeability – other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71- Injunctive relief – reinstatement of stay <input type="checkbox"/> 72- Injunctive relief – other FRBP 7001(8) – Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) – Declaratory Judgement <input type="checkbox"/> 91- Declaratory Judgement FRBP 7001(10) – Determination of Removed Action <input type="checkbox"/> 01- Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78AAA <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law.	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$4,000.00	
Other Relief Sought Attorney costs and Fees		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR ARTHUR T FLOWERS, JR.		BANKRUPTCY CASE NO. 06-31560
DISTRICT IN WHICH CASE IS PENDING MIDDLE	DIVISIONAL OFFICE ALABAMA	NAME OF JUDGE William R. Sawyer
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE 2/12/07	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Barry A Friedman	

INSTRUCTIONS

The filing of the bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, if it is required by the court. In some courts, the cover sheet is not required when the adversary proceeding is filed electronically through the court's Case Management/Electronic Case Files (CM/ECF) system. (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on our court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Parties. Give the name of the parties to the adversary proceeding exactly as they appear on the complaint. Give the names and addresses of the attorneys if known.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652
Phone: 251-439-7400

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
AT MONTGOMERY**

In re:

Arthur T Flowers, Jr.,

Debtor.

FIA Card Services, N.A.,

Plaintiff,

v.

Arthur T Flowers, Jr.,

Defendant.

Bankruptcy Case No. 06-31560

ADV. NO.

**COMPLAINT OBJECTING TO
DISCHARGEABILITY OF
INDEBTEDNESS
(11 U.S.C. § 523)**

COMES NOW Plaintiff, by and through its attorney of record, Barry Friedman, to allege and complain as follows:

I. PARTIES AND JURISDICTION

1. Plaintiff is a foreign corporation licensed to do business in the State of Alabama with all fees and licenses paid, and otherwise is entitled to bring this action.
2. Defendant filed a Chapter 7 bankruptcy petition on 11/22/2006.
3. Jurisdiction is vested in this proceeding pursuant to 28 U.S.C. § 157, 28 U.S.C. § 1334, and 11 U.S.C. § 523; this proceeding is a core matter.
4. Plaintiff is a creditor in this bankruptcy proceeding.

II. CAUSE OF ACTION

5. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 4, above.

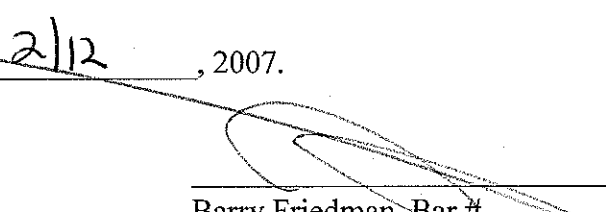
6. Defendant had a charge account with FIA Card Services, N.A., Account No. XXXXXX9921.
7. Defendant incurred charges and cash advances on this account totaling \$23,367.49, including interest, as of 11/22/2006, the date the bankruptcy petition was filed.
8. Between 08/16/2006 and 08/17/2006, Defendant incurred \$4,000.00 in cash advance and/or convenience check charges.
9. Defendant's debt is a "consumer debt", as defined by 11 U.S.C. § 101(8).
10. By obtaining and/or accepting an extension of credit from Plaintiff and incurring charges on the account, Defendant represented an intention to repay the amounts charged.
11. Plaintiff reasonably relied on the representations made by Defendant.
12. Defendant incurred the debts when Defendant had no ability or objective intent to repay them.
13. Defendant obtained credit extended from Plaintiff by false pretenses, false representations and/or actual fraud.
14. As a result of Defendant's conduct, Plaintiff has suffered damages in the amount of \$4,000.00.
15. Pursuant to 11 USC § 523(a)(2), Defendant should not be granted a discharge of this debt to the Plaintiff in the amount of \$4,000.00.

III. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court grant the following relief:

1. A monetary judgment against Defendant in the amount of \$4,000.00, plus accrued interest at the contractual rate from and after 11/22/2006, plus additional interest at the contractual rate, which will continue to accrue until the date of judgment herein;
2. An order determining that such debt is non-dischargeable under 11 USC § 523(a)(2);
3. An order awarding Plaintiff its attorneys' fees and costs incurred herein; and
4. An order awarding Plaintiff such additional relief as this Court deems just and equitable.

DATED 2/12, 2007.



Barry Friedman, Bar #
Attorney for Plaintiff

Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652
Phone: 251-439-7400

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
AT MONTGOMERY**

In re:

Arthur T Flowers, Jr.,
Debtor.

FIA Card Services, N.A.,
Plaintiff,

v.

Arthur T Flowers, Jr.,
Defendant.

Bankruptcy Case No. 06-31560

ADV. NO.

CERTIFICATE OF SERVICE

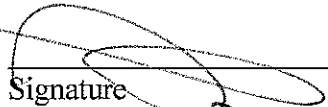
I certify that I am over the age of 18 and not a party to this action, and that on Feb 12, 2007, I sent by first class mail, postage prepaid, a true and correct copy of the Summons in an Adversary Proceeding (issued) and Complaint Objecting to Dischargeability of Indebtedness to the parties/attorneys listed below:

Arthur T Flowers, Jr.
3345 Habersham Rd
Montgomery, AL 36109-4317

Gail Donaldson
Bond Botes Shinn & Donaldson Pc
400 South Union Street, Suite 230
Montgomery, AL 36104-4302

Under penalty of perjury, I declare that the foregoing is true and correct.

Dated: 2/12, 2007

Signature 
Printed Name Barry A Friedman

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
AT MONTGOMERY**

In re:

Arthur T Flowers, Jr.,

Debtor.

FIA Card Services, N.A.,

Plaintiff,

v.

Arthur T Flowers, Jr.,

Defendant.

Bankruptcy Case No. 06-31560

ADV. NO.

SUMMONS

SUMMONS IN AN ADVERSARY PROCEEDING

YOU ARE SUMMONED and required to file a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall file a motion or answer to the complaint within 35 days.

Address of the Clerk: One Church Street, Ground Floor
Montgomery, AL 36102

At the same time you must serve a copy of the motion or answer upon the plaintiff's attorney (or plaintiff if not represented by counsel).

Name and Address of Plaintiff's Attorney: Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652

If you make a motion, your time to answer is governed by Fed. Rule of Bankruptcy Procedure 7012.

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Clerk of the Bankruptcy Court

By: _____
Deputy Clerk

Date of Issuance

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

In re:	*	Bankruptcy Case No. 06-31560
	*	
ARTHUR T. FLOWERS, JR.	*	In Chapter 7
	*	
Debtor.	*	Adversary No. 07-03009-WRS
	*	
FIA CARD SERVICES, N.A.	*	
	*	
Plaintiff,	*	
Vs.	*	
	*	
ARTHUR T. FLOWERS, JR.	*	
	*	
Defendant.	*	

**DEFENDANT'S ANSWER TO COMPLAINT TO
DETERMINE DISCHARGEABILITY OF DEBT**

First Defense

The Debtor admits the allegations of paragraphs 2 and 3. The Debtor admits that this proceeding is a core proceeding. The remaining allegations of this complaint are denied.

Second Defense

Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

Third Defense

The Plaintiff has failed to establish it is the owner of the alleged account in that it has not provided or proffered any proof of ownership by assignment of the account and lacks standing to bring this suit.

Fourth Defense

The Complaint and the purported cause of action against the Defendant is barred by the equitable doctrine of unclean hands.

Fifth Defense

The Plaintiff is estopped by their actions and/or the conduct or actions of its agents and principals (actual or ostensible) from bringing this Complaint or any other cause of action against the Defendant.

Sixth Defense

Defendant has insufficient information and knowledge upon which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available, and based thereon, Defendant reserves the right to assert any such affirmative defenses in the event discovery indicates they are proper.

Counterclaim

1. The position of the Creditor in this matter is not substantially justified.
2. The Creditor violated the Truth in Lending Act, 15, U.S.C. §§ 1601-1666j.

WHEREFORE, the Debtor prays that this Court enter an Order:

- (a) Dismissing the complaint of Plaintiff FIA Card Services, N. A. and declaring the debt in question dischargeable.
- (b) Awarding the Debtor attorney fees and costs, pursuant to 11 U.S.C. § 523(d).
- (c) Awarding the Debtor compensatory and punitive damages on his counterclaim.

Dated: March 5, 2007

A handwritten signature in cursive script, appearing to read "Gail Donaldson", written in black ink.

Gail Donaldson
Bradford W. Botes
Bond, Botes, Shinn & Donaldson, P.C.
Attorneys for the Defendant/Debtor
400 South Union Street, Suite 230
Montgomery, Alabama 36104
Phone (334) 264-3363
Fax (334) 264-3340
GDonaldson@bondnbotes.com
BBotes@bondnbotes.com

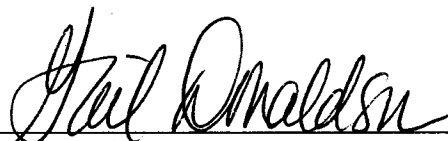
CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the Defendant's Answer to Complaint to Determine Dischargeability of Debt to parties in interest at the addresses shown below by first class mail, facsimile or electronic notice.

Dated: 06-27-06

Hon. Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652

Mr. Arthur Flowers, Jr.
3345 Habersham Road
Montgomery, AL 36109



Gail Donaldson
Bradford W. Botes
Attorneys for Defendant/Debtor
Bond, Botes, Shinn & Donaldson, P.C.
400 S Union St, Ste 230
Montgomery, AL 36104
Phone (334) 264-3363
Fax (334) 264-3340
GDonaldson@bondnbotes.com
BBotes@bondnbotes.com

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 06-31560-WRS

Chapter 7

ARTHUR T. FLOWERS,

Debtor.

FIA CARD SERVICES NA,

Plaintiff,

v.

Adv. Proc. No. 07-3009-WRS

ARTHUR T. FLOWERS JR.,

Defendant.

ORDER SETTING SCHEDULING CONFERENCE

Fed. R. Bankr. Proc. 7026 applies in this adversary proceeding.

Pursuant to Rule 7016(b), a SCHEDULING conference with the attorneys for the parties and any unrepresented parties will be held at the United States Bankruptcy Court, One Church Street, Courtroom 4-D, Montgomery, Alabama, on **April 10, 2007, at 10:00 a.m.**

The parties are ORDERED to meet no later than 7 days before the scheduling conference and take the actions prescribed by Rule 7026(f).

The parties need not file with the court the initial disclosures required by Rule 7026(a) or the discovery plan proposed by the parties. *See* Rule 7026(f).

ORDERED this 7th day of March, 2007.

/s/ William R. Sawyer
United States Bankruptcy Judge

c: Barry A. Friedman, Plaintiff
Gail Donaldson, Attorney for Defendant

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA

IN RE:

ARTHUR T FLOWERS JR
Debtor

CASE NUMBER: 06-31560

FIA CARD SERVICES, N.A.
Plaintiff

vs

ARTHUR T FLOWERS, JR
Defendants

ADV NUMBER: 07-03009

ANSWER TO COUNTERCLAIM

Comes now the Plaintiff, FIA CARD SERVICES, N.A., by and through its attorney, Barry A Friedman and file its answer to the Defendant's Counterclaim and would show unto the Court as follows:

1. Plaintiff denies the allegations in Defendant's Counterclaim and demands strict proof thereof.
2. Plaintiff denies the allegations in Defendant's Counterclaim and demands strict proof thereof.

\s\ BARRY A FRIEDMAN
BARRY A FRIEDMAN
Attorney for Plaintiff
257 St Anthony Street
Post Office Box 2394
Mobile, Alabama 36603
Telephone: 251-439-7400

CERTIFICATE OF SERVICE

I, the undersigned authority, hereby certify that I have on this 10th day of April, 2007, served a copy of the foregoing on Gail Donaldson, 400 S Union Street, Suite 230, Montgomery, Alabama 36104, by depositing same in the United States mail, properly addressed and postage prepaid and/or electronically

/S/ BARRY A FRIEDMAN
BARRY A FRIEDMAN

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 06-31560-WRS

Chapter 7

ARTHUR T. FLOWERS JR.,

Debtor.

FIA CARD SERVICES N.A.

Plaintiff,

Adv. Pro. No. 07-3009-WRS

v.

ARTHUR T. FLOWERS JR., et al.,

Defendants.

**ORDER SETTING TRIAL DATE
SCHEDULING ORDER**

As announced from the bench at the scheduling conference held April 10, 2007, the following is the schedule of events in this adversary proceeding:

Discovery shall be completed no later than **June 11, 2007**.

Dispositive motions shall be filed no later than **July 12, 2007**.

Counsel for the parties shall exchange and file with the court by **August 13, 2007**, the pretrial disclosures required by Fed. R. Bankr. Proc. 7026(a)(3). Exhibits, depositions, and the testimony of witnesses not so disclosed shall not be admitted into evidence at the trial except for good cause shown.

Counsel for the parties shall exchange and file with the court by **August 31, 2007**, a list disclosing any objections to the use of depositions or admissibility of exhibits identified or designated under Fed. R. Bankr. Proc. 7026(a)(3). Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the court for good cause shown.

Counsel for the parties shall file a joint pretrial statement by **August 31, 2007**, containing the following:

1. A comprehensive written stipulation of all uncontested facts, including underlying facts, in such form that it can be incorporated in the final order as part of the findings of fact.

2. A statement of the contentions of each party with respect to contested facts and law.

Prior to trial, all exhibits to be offered at trial shall be marked for identification. Copies shall be made available to the court at the trial.

A telephonic pretrial conference will be held on **September 11, 2007, at 1:30 p.m.** The order of trial will be established at the pretrial conference.

Each party desiring to be heard MUST CALL conferencing services at least five minutes prior to the commencement of court. You will be asked to provide the name of the chairperson and the name of the caller. The number is 1/800-347-3350. The chairperson is William Livingston.

The trial is “deep set” with several other adversaries beginning **Monday, September 24, 2006.**

Done this 10th day of April, 2007.

/s/ Dwight H. Williams Jr.,
United States Bankruptcy Judge

c: Barry A. Friedman, Attorney for Plaintiff
Gail Donaldson, Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

In the Matter of:

ARTHUR T. FLOWERS, JR.

Debtor**FIA CARD SERVICES, N. A.**

Plaintiff

y.

ARTHUR T. FLOWERS, JR.,

Defendant

Case No. 06-31560

Chapter 13

AP No. 07-03009

MOTION FOR SUMMARY JUDGMENT

NOW COMES the Defendant, Arthur T. Flowers, Jr., by and through counsel, and moves this Honorable Court to enter, pursuant to Rule 56 of the Rules of Civil Procedure as incorporated in Rule 7056 of the Federal Rules of Bankruptcy Procedure, a summary judgment in the Defendant's favor and against the Plaintiff, FIA Card Services, N.A., alleging and stating as follows:

1. The Plaintiff filed a Complaint alleging that the Defendant obtained credit from the Plaintiff in the amount of \$4000.00 by false pretenses, false representations and/or actual fraud and that Defendant should not be granted a discharge with respect to such debt pursuant to the provisions of 11 U.S.C. §523(a)(2).

2. The Plaintiff has failed to produce any evidence whatsoever to support its assertions. There is no genuine issue as to any material facts. The Defendant is entitled to a judgment as a matter of law. This Motion for Summary Judgment against the Plaintiff is further based upon the following:

a. The pleadings in this case.

b. The affidavit of the Defendant in support of this Motion for Summary Judgment. See Exhibit A.

c. The Defendant's First Set of Interrogatories and Requests for Admission and the Plaintiff's responses thereto. See Exhibit B.

d. The fact that Plaintiff did not attend the Section 341(a) Meeting of Creditors in Debtor/Defendant's bankruptcy, and did not conduct a Rule 2004 deposition of Debtor/Defendant at any time prior to filing this Adversary Proceeding Complaint. See Plaintiff's Response to Defendant's Request for Admission (12).

e. The fact that Plaintiff did not attend the Scheduling Conference held before this Court on April 10, 2007.

f. Inexplicably, the discovery requests propounded by the Plaintiff to the Defendant on or about March 12, 2007 listed the Plaintiff by a different name than that used in the Complaint filed by Plaintiff (Complaint names Plaintiff as FIA Card Services, N.A. – Discovery Requests name Plaintiff as MBNA America, N.A.). See Exhibits C and D.

3. Plaintiff clearly did not and does not have any evidence of Debtor/Defendant's alleged intent to defraud pursuant to 11 USC § 523(a)(2)(A) as alleged in this Adversary Proceeding.

4. Summary judgment is proper where there are no genuine issues of material fact in dispute and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). The judge is not to "weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986). A genuine issue for trial exists only when there is sufficient "evidence on which the jury could reasonably find for the plaintiff." *Id.* at 252.

WHEREFORE, the Defendant respectfully requests that this Honorable Court grant a Summary Judgment in favor of the Defendant and against the Plaintiff. The Defendant further prays that this Court will enter an Order:

(a) Declaring the debt in question dischargeable.

(b) Awarding the Debtor attorney fees and costs, pursuant to 11 U.S.C. §523(d).

(c) That the Plaintiffs shall have such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Gail Donaldson

Gail Donaldson

Bradford W. Botes

Bond, Botes, Shinn & Donaldson, P.C.

Attorneys for the Defendant/Debtor

Arthur T. Flowers, Jr.

CERTIFICATE OF SERVICE

I hereby certify that I have on this 2nd day of May, 2007, served a copy of the foregoing Motion for Summary Judgment on Barry Friedman, Barry Friedman & Associates, 257 St. Anthony Street, P.O. Box 2394, Mobile, AL 36652, Attorney for FIA Card Services, N.A. by United States mail and, by mailing the same by United States mail properly addressed and First Class Postage prepaid.

/s/ Gail Donaldson

Gail Donaldson

Attorney for Plaintiff

400 South Union Street

Suite 230

Montgomery, AL 36104

Phone (334) 264-3363

fax (334) 264-3340

GDonaldson@bondnbotes.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

In the Matter of:

ARTHUR T. FLOWERS, JR.

Debtor

FIA CARD SERVICES, N. A.

Plaintiff

V.

ARTHUR T. FLOWERS, JR.,

Defendant

Case No. 06-31560

Chapter 13

AP No. 07-03009

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

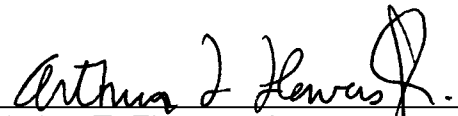
Before me the undersigned Notary Public, appeared Arthur T. Flowers, Jr. and states as follows:

My name is Arthur T. Flowers, Jr. and I am the Defendant in this Adversary Proceeding. I am submitting this affidavit in support of the Motion for Summary Judgment.

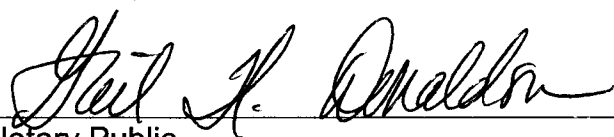
I am disabled and face serious medical conditions. I am currently awaiting a heart transplant. On June 7, 2006, I suffered a cardiac arrest and died for a few minutes but was revived by doctors. I suffer short term memory loss as a result of my health condition.

I first consulted the law firm of Bond, Botes, Shinn & Donaldson, P.C. on October 27, 2006 in order to explore my legal rights with respect to the financial problems I was experiencing. Prior to that time, I remained optimistic that I would be able to work my way out debt. I had always paid my bills and had every intention to repay my debt. I did not think that I would need to seek bankruptcy relief. At no time did I intend to obtain credit from the Plaintiff by false pretenses, false representations and/or actual fraud.

Exhibit
A


Arthur T. Flowers, Jr.

Sworn to and subscribed before me, the undersigned Notary Public, on this the
2nd day of May, 2007.


Notary Public
My Commission expires 11-1-09

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

IN THE MATTER OF:

**ARTHUR T. FLOWERS, JR.
3345 HABERSHAM ROAD
MONTGOMERY, AL 36109**

CHAPTER 13 NO. 06-31560

SSN: --- -- 7586

DEBTOR(S)

FIA CARD SERVICES, N.A.

Adv. Proc. No. 07-03009

Plaintiff,

versus

ARTHUR T. FLOWERS, JR.

Defendant.

Defendant.

**DEFENDANT'S RESPONSES TO
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION**

NOW COMES the Defendant, by and through his attorney of record, and hereby responds to the First Set of Interrogatories and Requests for Production, in accordance with Rule 7033 of the Federal Rules of Bankruptcy Procedure and Rule 33 of the Federal Rules of Civil Procedure.

GENERAL OBJECTIONS

1. The Defendant objects to each interrogatory and/or each document request insofar as it or any portion of any interrogatory or request seeks to impose on the Defendant obligations other than those required by the Federal Rules of Civil Procedure or the local bankruptcy rules of the United States Bankruptcy Court for the Middle District of Alabama.
2. The Defendant further objects to each interrogatory and/or request to the extent that it seeks or implicates information protected by the attorney-client privilege, work product doctrine or any other privilege or protection from discovery.
3. Further, the Defendant objects to each interrogatory and/or request to the extent that the discovery is obtainable from some other source that is more convenient, less burdensome, less expensive or to the extent that responding would be oppressive, unduly burdensome or expensive.
4. The Defendant further objects to each interrogatory and/or request to the extent that it seeks documents that are publicly available or matters of public record or information that is not in the Defendant's possession, custody or control.

5. The Defendant objects to the definitions or instructions to the extent that they seek to define the terms in a manner that is inconsistent with the Federal Rules of Civil Procedure or are overly broad, erroneous or misleading.

6. The Defendant objects to the extent that the discovery requested is in the custody and control of the Plaintiff or obtainable by the Plaintiff in the same manner that the Defendant would obtain responsive information.

INTERROGATORIES

1.

ANSWER: 54 years of age; completed one year of college; currently disabled, not employed since May, 2002

2.

ANSWER: Claud Fleahop Road, Tallassee, AL 36078

3.

ANSWER: Chase (2 accounts); Discover; Lowe's; MBNA/Bank of America; Sears

4.

ANSWER: Any cards used are listed in bankruptcy petition. I do not know any exact dates, amounts or whether they were charges or cash advances for any specific cards.

5.

ANSWER:	12-01-06	MBNA	\$350.00
	01-02-06	MBNA	\$475.00
	01-10-06	Sears	\$100.00
	01-13-06	Chase Card Services	\$300.00
	01-18-06	Discover	\$200.00
	02-01-06	Lowe's	\$75.00
	02-06-06	MBNA	\$520.00
	02-08-06	Sears	\$100.00
	02-15-06	Chase Card Services	\$300.00
	02-21-06	Discover	\$200.00
	02-28-06	Lowe's	\$100.00
	03-02-06	Chase Card Services	\$310.00
	03-03-06	MBNA	\$475.00
	03-13-06	Sears	\$100.00
	03-17-06	Chase Card Services	\$300.00
	03-20-06	Discover	\$200.00
	04-01-06	Chase Card Services	\$300.00
	04-04-06	MBNA	\$450.00
	04-03-06	Lowe's	\$100.00
	04-11-06	Sears	\$100.00
	04-12-06	Discover	\$200.00
	04-12-06	Chase Card Services	\$300.00
	05-01-06	Lowe's	\$100.00
	05-02-06	MBNA	\$485.00
	05-02-06	Chase Card Services	\$360.00
	05-15-06	Sears	\$130.00
	05-15-06	Chase Card Services	\$300.00

05-22-06	Discover	\$200.00
05-27-06	Chase Card Services	\$360.00
05-31-06	Lowes	\$50.00
06-05-06	MBNA	\$505.00
06-07-06	Sears	\$130.00
06-18-06	Discover	\$200.00
06-17-06	Chase Card Services	\$350.00
06-29-06	Chase Card Services	\$325.00
07-03-06	Lowes	\$100.00
07-05-06	MBNA	\$510.00
07-11-06	Sears	\$100.00
07-14-06	Chase Card Services	\$380.00
07-21-06	Discover	\$250.00
08-01-06	Lowes	\$100.00
08-02-06	MBNA	\$530.00
08-14-06	Sears	\$125.00
08-21-06	Discover	\$200.00
08-21-06	Chase	\$350.00
08-29-06	Lowes	\$100.00

May have others but unable to locate records; will supplement when/if records found. Source of payments was household income.

6.

ANSWER: No

7.

ANSWER: None to date.

8.

ANSWER: None to date.

9.

ANSWER: The first time I consulted with an attorney was October 27, 2006. The attorney was Gail Donaldson.

10.

ANSWER: My wife and I married in 1998 and moved to Eclectic, AL. I was earning approximately \$40,000 per year with Wilson Oil and my wife earned approximately \$50,000 per year with HK Systems. We supported a family of four. My step-daughter had a baby in January, 2000 and another in June, 2003 which we also supported. Both my wife and I commuted approximately 90 miles per day to work. In January, 2001, my wife lost her job after 23 years and was not able to find a job until July, 2001. Her new job paid one half of her previous salary. My income decreased to straight salary of approximately \$350.00 gross per week due to increase gasoline prices. My commission income ended with the gasoline prices increasing. My wages decreased 50%. In May, 2002, the store I managed was sold and I lost my job. In September, 2002 my mother fell and injured her hip and was forced to move in with us. She soon began to exhibit Alzheimer's disease and required full time supervision. She lived with us until she passed away in June, 2003. My health continued to get worse and in addition to my heart surgery, I developed diabetes and thyroiditis. We placed our house on the market in January or February, 2003. We initially tried to

sell it ourselves to get as much as possible but we were unable to sell it. We were forced to list it with a realtor in April or May, 2003. Our profit was only \$2500 which only covered our moving expenses and fence replacement at the new house. I applied for SS disability and was approved in April, 2004.

In June, 2006, I suffered a full cardiac arrest with some brain damage. I had to have a defibrillator placed in my heart and must be followed closely by a physician. In September, 2006, I suffered another cardiac arrest and fell and busted my head open and required stitches. I am currently being evaluated for a heart transplant.

11.

ANSWER: NONE

12.

ANSWER: NONE

13.

ANSWER: My wife. Bank records to complete number 5.

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS

1.

ANSWER: No witnesses to be called to date.

2.

ANSWER: None known.

3.

ANSWER: The ones I do have are attached.

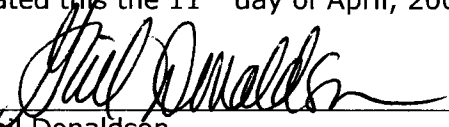
4.

ANSWER: January, 2006 through October 10, 2006 are attached.

5.

ANSWER: 2005 and 2004 Tax returns are attached

Dated this the 11TH day of April, 2007.


Gail Donaldson
Bradford W. Botes
Bond, Botes, Shinn & Donaldson, P.C.
Attorneys for the Defendant
400 South Union Street, Suite 230
Montgomery, Alabama 36104
Phone (334) 264-3363
FAX (334) 264-3340
e-mail: Gdonaldson@bondnbotes.com

CERTIFICATE OF SERVICE

Gail Donaldson, Attorney for the Defendant, hereby certifies to the Court as follows:

1. I am not a party for the foregoing proceeding;
2. I am not less than 18 years of age;
3. I have this day served a copy of the foregoing **DEFENDANTS'S RESPONSES**

TO FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS on all parties in interest by placing the same in an envelope, first-class mail, postage prepaid, (or by certified mail, return receipt, postage prepaid, as indicated below), addressed to each person at his dwelling house or usual place of abode or to the place where he regularly conducts his business or profession as follows:

Debtor

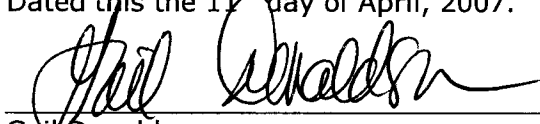
And Via the Court's Electronic Case Filing System to:

Barry Friedman
Barry Friedman & Associates
257 St Anthony St
P.O. Box 2394
Mobile, AL 36652

4. To the best of my knowledge, information and belief, the parties in interest are not infants or incompetent persons;

5. Service as outlined herein was made within the United States of America.

Dated this the 11th day of April, 2007.



Gail Donaldson
Bradford W. Botes
Bond, Botes, Shinn & Donaldson, P.C.
Attorneys for the Defendant
400 South Union Street, Suite 230
Montgomery, Alabama 36104
(334) 264-3363
FAX (334) 264-3340
e-mail: Gdonaldson@bondnbotes.com

**Sears Card®**

MR TAL FLOWERS JR

Account Number [REDACTED] 0119

Page 1 of 2

Call us at 1-800-917-7700

Go to www.irsccard.com

Write to us at PO Box 6924 The Lakes, OH 44089-0119

Payment Due Date

12/07/06

Your Account Summary

Billing Cycle Closing Date	11/09/06
Amount Over Credit Line	\$0.00
Amount Past Due	\$505.10
Total Minimum Due	\$689.60

Previous Balance	\$4,273.55
Payments & Credits	\$0.00
Purchases & Debits	\$0.00
Other Charges	\$35.00
Total FINANCE CHARGES	\$104.50
Account Balance	\$4,413.05

Most Current Bills

Your Credit Summary

Total Credit Line	\$4,630.00
Total Credit Available	\$216.00

Activity	Sale Date	Post Date	Description	Amount
	11/08/06	11/08/06	LATE PAYMENT FEE	35.00

YOUR ACCOUNT IS SERIOUSLY PAST DUE. AMOUNT PAST DUE IS SHOWN ABOVE. ARRANGEMENTS FOR FUTURE PAYMENTS SHOULD BE MADE IMMEDIATELY.

DUE TO YOUR CREDIT PERFORMANCE, WE HAVE DECREASED YOUR CREDIT LINE. CREDIT LINES ARE REVIEWED REGULARLY. YOUR PROMPT AND REGULAR PAYMENTS OF THE "MINIMUM AMOUNT DUE" WILL IMPROVE YOUR CREDIT STANDING.

✓

Sears Card®

Account Number [REDACTED] 0119



Account Balance

\$4,413.05

Payment Due Date

12/07/06

Total Minimum Due

\$689.60

Amount Enclosed

\$

0279986 D 07 8

06313 1 TRS006 FXG 001 7 N



MR TAL FLOWERS JR
3345 HABERSHAM RD
MONTGOMERY AL 36109-4317



Make check payable to
SEARS CREDIT CARDS
PO BOX 183081
COLUMBUS, OH 43218-3081

Please make address changes on reverse side.

200 5049948065100119 0441305 0068960 0000000 0718

3



Statement Date: 10/1/06
 Payment Due Date: 12/01/06
 Minimum Payment Due: \$1.70

CUSTOMER SERVICE
 In U.S. 1-800-945-2000
 Español 1-888-446-3308
 TDD 1-800-955-8060
 Pay by phone 1-800-436-7958
 Outside U.S. call collect
 1-302-594-8200

MASTERCARD ACCOUNT SUMMARY Account Number [REDACTED] 0318

Previous Balance	\$12,451.95	Total Credit Line	\$12,900
Purchases, Cash, Debits	+\$39.00	Available Credit	\$87
Finance Charges	+\$321.33	Cash Access Line	\$12,900
New Balance	\$12,812.28	Available for Cash	\$0

ACCOUNT INQUIRIES

P.O. Box 15298
 Wilmington, DE 19850-5298

PAYMENT ADDRESS

P.O. Box 94014
 Palatine, IL 60094-4014

VISIT US AT:

www.chase.com/creditcards

A late fee is reflected on this billing statement. Your minimum payment reflects 1% of your statement balance, plus any past-due amount, billed interest, and the billed late fee.

You haven't made the required payments and your credit card account is 90 days past due. As a result, your credit bureau may be updated with a negative rating. Please send your payment immediately or call us at 1-800-955-8030 (collect 1-302-594-8200) today.

FLEXIBLE REWARDS SUMMARY

Previous points balance	0
Points earned on purchases this period	0
Member-Get-Member bonus points	0
Member-Get-Member bonus points	0
New total points balance	0

To redeem your Flexible Rewards points, call 1-800-603-2265, or log on to www.ChooseMyRewards.com for 24-hour access to your rewards program.

TRANSACTIONS

Trans Date	Reference Number	Merchant Name or Transaction Description	Amount Credit	Debit
11/05		LATE FEE		\$39.00

FINANCE CHARGES

Category	Daily Periodic Rate 31 days in cycle	Corresp. APR	Average Daily Balance	Finance Charge Due To Periodic Rate	Transaction Fee	Accumulated Fin Charge	FINANCE CHARGES
Purchases	V .08217%	29.99%	\$3,048.96	\$77.67	\$0.00	\$0.00	\$77.67
Cash advances	V .08217%	29.99%	\$9,565.27	\$243.66	\$0.00	\$0.00	\$243.66
Total finance charges							\$321.33

Effective Annual Percentage Rate (APR): 29.99%

Please see Information About Your Account section for balance computation method, grace period, and other important information.

The Corresponding APR is the rate of interest you pay when you carry a balance on any transaction category.

The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

IMPORTANT NEWS

Whether you are traveling for the holidays or preparing the feast, be sure to use your Flexible Rewards card. Earn 1 point for every \$1 in eligible purchases. Reward yourself with merchandise, gift cards, travel, or a cash-back check. Go to www.ChooseMyRewards.com to redeem your points.

National Society of Professional Engineers

Case 2:07-cv-00971-MHT

Document 2-9

Filed 10/29/2007

Page 8 of 42

Bank of America



Prepared for: ARTHUR T FLOWERS

October 2006 Statement

Credit Line: \$34,200.00

Cash or Credit Available:

mbna

Customer Service

For Information on Your Account Visit
www.mbnanetaccess.com

Mail Payments to:

MBNA AMERICA
P.O. BOX 15726
WILMINGTON, DE 19886-5726

Mail Billing Inquiries to:

MBNA AMERICA
P.O. BOX 15026
WILMINGTON, DE 19850-5026

Call toll-free 1-800-789-6701

TDD hearing-impaired 1-800-346-3178

Account Information

Summary of Transactions

Previous Balance	\$21,943.46
Payments and Credits	\$0.00
Cash Advances	\$0.00
Purchases and Adjustments	\$48.99
Periodic Rate Finance Charges	\$409.10
Transaction Fee Finance Charges	\$0.00
New Balance Total	\$22,401.55

Billing Cycle and Payment Information

Days in Billing Cycle	29
Closing Date	10/07/06
Payment Due Date	11/02/06
Current Payment Due	\$667.00
Past Due Amount	\$1,155.00
Total Minimum Payment Due	\$1,822.00

Transactions

Purchases and Adjustments

	Posting Date	Transaction Date	Reference Number	Account Number	Category	Amount
PRIVACY ASST 800516956 800-5169561 DE 719091513092913	09/16	09/15	2246	9921	C	9.99
LATE FEE FOR PAYMENT DUE 10/02	10/02	10/02	1953		C	39.00

Finance Charge Schedule

Category	Periodic Rate	Corresponding Annual Percentage Rate	Balance Subject to Finance Charge
Cash Advances			
A. Balance Transfers, Checks	0.063671% DLY *	23.24%	\$4,329.96
B. ATM, Bank	0.063671% DLY *	23.24%	\$0.00
C. Purchases	0.063671% DLY *	23.24%	\$10,287.11
D. Other	0.063671% DLY *	23.24%	\$7,539.17

Annual Percentage Rate for this Billing Period:

(Includes Periodic Rate Finance Charges and Transaction Fee Finance Charges.)

23.24%

* Periodic Rate May Vary

Important Information About Your Account

YOU ARE A VALUED CUSTOMER. WE WANT TO MAKE SURE YOU ARE AWARE THAT WE HAVE NOT RECEIVED YOUR PAYMENT. PLEASE SEND THE AMOUNT DUE TODAY. IF IT HAS BEEN MAILED, THANK YOU.

YOUR STATEMENT AND ENVELOPE HAVE A NEW LOOK AND FEEL. THIS NEW EASY-TO-READ FORMAT WILL HELP YOU REVIEW YOUR STATEMENT FASTER. TO LEARN MORE ABOUT HOW TO FIND IMPORTANT INFORMATION ON YOUR IMPROVED STATEMENT, SEE THE ENCLOSED INSERT.

DON'T LET UNEXPECTED EVENTS AFFECT YOUR HARD EARNED CREDIT. TO PROTECT YOUR ACCOUNT, CALL 1-800-280-2528 TODAY.

08 0224015500182200000530000004264290106009921

MBNA AMERICA
P.O. BOX 15726
WILMINGTON, DE 19886-5726



1 0001804 00557 0700000001 USE111 00010-10

ARTHUR T FLOWERS
3345 HABERSHAM RD
MONTGOMERY AL 36109-4317-457

☐ Check here for a change of mailing address or phone number(s). Please provide all corrections on the reverse side.

Payment Information

ACCOUNT NUMBER: 9921

NEW BALANCE TOTAL: \$22,401.55

PAYMENT DUE DATE: 11/02/06

TOTAL MINIMUM
PAYMENT DUE
\$1,822.00

Enter Payment Amount Enclosed:

\$

Mail this payment coupon along with a check or money order payable to: MBNA AMERICA

0524022250 08880106009921



Payment Due Date: 11/04/07
Minimum Payment Due: \$1,214.00

CUSTOMER SERVICE
U.S. 1-800-424-2000
español 1-888-446-3308
TDD 1-800-955-8060
Pay by phone 1-800-436-7958
Outside U.S. call collect
1-302-594-8200

MASTERCARD ACCOUNT SUMMARY Account Number [REDACTED] 318

Previous Balance	\$12,110.66	Total Credit Line	\$16,000
Purchases, Cash, Debits	+\$39.00	Available Credit	\$3,548
Finance Charges	+\$302.29	Cash Access Line	\$16,000
New Balance	\$12,451.95	Available for Cash	\$0

ACCOUNT INQUIRIES
P.O. Box 15298
Wilmington, DE 19850-5298

PAYMENT ADDRESS
P.O. Box 94014
Palatine, IL 60094-4014

VISIT US AT:
www.chase.com/creditcards

A late fee is reflected on this billing statement. Your minimum payment reflects 1% of your statement balance, plus any past-due amount, billed interest, and the billed late fee.

The charge privileges on your credit card account have been revoked. You no longer have the ability to use your credit card account for purchases. We can help you get back on track. Call 1-800-955-8030 (collect 1-302-594-8200) today.

The new APR and promotional rate expiration reflected on this statement is a result of a late payment on your account. For your convenience, you can always pay online by accessing our website displayed on this statement.

FLEXIBLE REWARDS SUMMARY

Previous points balance	7,126
Points earned on purchases this period	0
Member-Get-Member bonus points	0
Member-Get-Member bonus points	0
New total points balance	0

To redeem your Flexible Rewards points, call 1-800-603-2265, or log on to www.ChooseMyRewards.com for 24-hour access to your rewards program.

TRANSACTIONS

Trans Date	Reference Number	Merchant Name or Transaction Description	Amount Credit	Debit
10/06		LATE FEE		\$39.00

FINANCE CHARGES

Category	Daily Periodic Rate 30 days in cycle	Corresp. APR	Average Daily Balance	Finance Charge Due To Periodic Rate	Transaction Fee	Accumulated Fin Charge	FINANCE CHARGES
Purchases	V .08217%	29.99%	\$2,933.98	\$72.33	\$0.00	\$0.00	\$72.33
Cash advances	V .08217%	29.99%	\$9,328.60	\$229.96	\$0.00	\$0.00	\$229.96
Total finance charges							\$302.29

Effective Annual Percentage Rate (APR): 29.99%

Please see Information About Your Account section for balance computation method, grace period, and other important information.

The Corresponding APR is the rate of interest you pay when you carry a balance on any transaction category.

The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

Discover Platinum Card Account Summary

Cardmember since 1986

Closing Date: October 20, 2006

page 1 of 2

Account Number [REDACTED] 271
 Payment Due Date November 19, 2006
 Minimum Payment Due \$421.00
 Credit Limit \$11,000.00
 Credit Available \$3,560.00
 Cash Credit Limit \$5,500.00
 Cash Credit Available \$3,560.00

Previous Balance \$7,278.00
 Payments And Credits - 0.00
 Purchases + 39.00
 Cash Advances + 0.00
 Balance Transfers + 0.00
Finance Charges + 122.01
New Balance = \$7,439.01

You may be able to avoid Periodic Finance Charges, see the reverse side for details.

Cashback Bonus®

Opening Cashback Bonus Balance \$ 25.73
 New Cashback Bonus Earned + 0.00

Cashback Bonus Balance \$ 25.73
Available to Redeem \$ 0.00

Cashback Bonus® Since Anniversary Date
 of October 20: \$17.45

How Can We Help You?

Please have your Discover Card available.

Manage your account online at Discovercard.com

Customer Service: 1-800-DISCOVER (1-800-347-2683)

For Account Inquiries, write to us at:

Discover Platinum Card, PO Box 30943
 Salt Lake City, UT 84130

TDD (Telecommunications Device for the Deaf):

For assistance, see reverse side.

Transactions

\$0 Fraud Liability Guarantee Use your Discover Card with confidence.

	Trans. Date	Post Date	
Other/Miscellaneous	Oct 20	Oct 20	LATE FEE \$ 39.00

Information For You

The address provided in your Cardmember Agreement to request a beneficiary designation form for your Scheduled Air Travel Accident Insurance has changed. The new address is AIG Accident & Health Division, 300 South Riverside Plaza, Suite 2100, Chicago, Illinois 60606-6613.

While we are permitted under the Cardmember Agreement to increase the APRs on your Account because your payment was late, we have chosen not to do so at this time. We have terminated, however, any introductory or promotional rate on purchases and any special balance transfer rate, and applied the standard APR for purchases to your outstanding balance of purchases and balance transfers. However, we reserve the right to increase the APRs on your Account if you fail to pay the minimum payment due by the payment due date. See the Default Rate Plan section of the Cardmember Agreement for details.

***** ATTENTION ***** ATTENTION ***** ATTENTION ***** ATTENTION *****

ATTENTION ***** We previously requested the past due amount on your account. We have no record of receiving payment. The amount due should be paid at once.

It pays to
DISCOVER



Statement Date: 10/26/07
 Payment Due Date: 11/20/07
 Minimum Payment Due: \$1,396.11

CUSTOMER SERVICE
 In U.S. 1-800-945-2000
 Español 1-888-446-3308
 TDD 1-800-955-8060
 Pay by phone 1-800-436-7958
 Outside U.S. call collect
 1-302-594-8200

VISA ACCOUNT SUMMARY

Account Number: [REDACTED] 7180

Previous Balance	\$15,149.91	Total Credit Line	\$17,300
Purchases, Cash, Debits	+\$39.00	Available Credit	\$1,735
Finance Charges	+\$375.97	Cash Access Line	\$17,300
New Balance	\$15,564.88	Available for Cash	\$0

ACCOUNT INQUIRIES

P.O. Box 15298
 Wilmington, DE 19850-5298

PAYMENT ADDRESS

P.O. Box 94014
 Palatine, IL 60094-4014

VISIT US AT:

www.chase.com/creditcards

A late fee is reflected on this billing statement. Your minimum payment reflects 1% of your statement balance, plus any past-due amount, billed interest, and the billed late fee.

The charge privileges on your credit card account have been revoked. You no longer have the ability to use your credit card account for purchases. We can help you get back on track. Call 1-800-955-8030 (collect 1-302-594-8200) today.

The new APR and promotional rate expiration reflected on this statement is a result of a late payment on your account. For your convenience, you can always pay online by accessing our website displayed on this statement.

TRANSACTIONS

Trans Date	Reference Number	Merchant Name or Transaction Description	Amount	
			Credit	Debit
10/22		LATE FEE		\$39.00

FINANCE CHARGES

Category	Daily Periodic Rate 30 days in cycle	Corresp. APR	Average Daily Balance	Finance Charge		Transaction Fee	Accumulated Fin Charge	FINANCE CHARGES
				Due To Periodic Rate				
Purchases	V .08217%	29.99%	\$14,000.83	\$345.14	\$0.00	\$0.00	\$345.14	
Cash advances	V .08217%	29.99%	\$1,125.94	\$27.76	\$0.00	\$0.00	\$27.76	
Convenience check	V .08217%	29.99%	\$124.53	\$3.07	\$0.00	\$0.00	\$3.07	
Total finance charges								\$375.97

Effective Annual Percentage Rate (APR): 29.99%

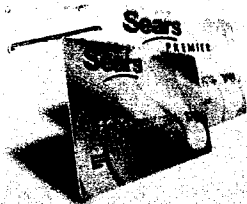
Please see Information About Your Account section for balance computation method, grace period, and other important information.

The Corresponding APR is the rate of interest you pay when you carry a balance on any transaction category.

The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

IMPORTANT NEWS

Did you know you can use your credit card to access cash whenever and wherever you need it? All you need is your PIN (Personal Identification Number) and an ATM.
 Just call 1-800-297-4970
 to create your PIN today.



Sears Card

MR TAL FLOWERS JR

Account Number [REDACTED] 0119

Page 1 of 2

at 1-800-917-7700

Go to: www.searscard.com

Write to us at PO Box 6924 The Lakes, NY 88901-6924

Payment Due Date

11/08/06

Your Account Summary

Billing Cycle Closing Date	10/11/06
Amount Over Credit Line	\$0.00
Amount Past Due	\$325.92
Total Minimum Due	\$505.10

Previous Balance	\$4,137.37
Payments & Credits	\$0.00
Activity	\$0.00
Other Charges	\$35.00
Total FINANCE CHARGES	\$101.18
Account Balance	\$4,273.55

Manage your account online—it's FREE

Pay your bill, track purchases, set email alerts, even request a credit line increase—do it all online at SearsCard.com. It's a great way to stay on top of your account.



Register today at SearsCard.com

It's free, and you won't believe how much time you can save. See for yourself at SearsCard.com.

Your Credit Summary

Total Credit Line	\$9,900.00
Total Credit Available	\$5,626.00

Activity	Sale Date	Post Date	Description	Amount
	10/10/06	10/10/06	LATE PAYMENT FEE	35.00

YOUR ACCOUNT IS SERIOUSLY PAST DUE. AMOUNT PAST DUE IS SHOWN ABOVE. ARRANGEMENTS FOR FUTURE PAYMENTS SHOULD BE MADE IMMEDIATELY.

THE APR ON YOUR ACCOUNT HAS BEEN INCREASED FOR ONE OF THE FOLLOWING REASONS: YOU FAILED TO MAKE PAYMENT TO US ON THIS OR ANY OTHER ACCOUNT THAT YOU HAVE WITH US WHEN DUE, YOU EXCEEDED YOUR CREDIT LINE ON THIS OR ANY OTHER ACCOUNT YOU HAVE WITH US, OR YOU MADE A PAYMENT TO US ON THIS OR ANY OTHER ACCOUNT YOU HAVE WITH US THAT WAS NOT HONORED BY YOUR BANK.



BALANCE SUMMARY							
Plan Type	Previous Balance	- Payments & Credits	+/- FINANCE CHARGE (net)	+ Purchases	+/- Debt Cancellation, Insurance & Adjustments	= New Balance	Minimum Payment
REG	\$1,402.52	\$0.00	\$24.49	\$0.00	\$35.00	\$1,462.01	\$80.00
TOTAL:	\$1,402.52	\$0.00	\$24.49	\$0.00	\$35.00	\$1,462.01	\$80.00

TRANSACTION SUMMARY				
Tran Date	Invoice Number	Description	Plan Type	Amount
09/30		LATE FEE		\$35.00
10/03		"FINANCE CHARGE"		\$24.49

FINANCE CHARGE SUMMARY						
Plan Type	Balance Subject To Finance Charge	Daily Periodic Rate	Corresponding ANNUAL PERCENTAGE RATE	Days This Billing Period	FINANCE CHARGE	Balance Method
REG	\$1,418.95	.05754 %	21.00%	30	\$24.49	2D
BIG	\$0.00	.04242 %	15.48%	30	\$0.00	2D
Total Periodic FINANCE CHARGE:						\$24.49

CARDHOLDER NEWS & INFORMATION

YOUR ACCOUNT HAS 2 PAYMENTS DUE. PLEASE MAIL THE MINIMUM PAYMENT DUE TODAY. PLEASE DISREGARD IF MINIMUM PAYMENT DUE HAS ALREADY BEEN MADE.

Moving? Visit Lowesmoving.com for tools, tips and valuable offers to make your move easier.

Please Note: When contacting the Lowe's Credit Center, you must be listed as an account owner to obtain information about the account. We cannot disclose information to authorized users or third parties.

CUSTOMER SERVICE: For account information call 1-800-444-1408
 NOTICE: PLEASE SEE REVERSE SIDE FOR BILLING RIGHTS AND IMPORTANT INFORMATION:
 PAYMENT DUE BY 5 P.M. ON THE DUE DATE. We may convert your payment into an electronic debit. See reverse for details.

7009 0002 9WD 2 7 3 061003 D Page 1 of 2 9294 0010 NN76 280486

▲ Detach and mail this portion with your check to LOWE'S. Please use blue or black ink. ▲



Payment Due Date	Past Due Amount	Minimum Payment Due	New Balance	Account Number
10/29/2006	\$39.00	\$80.00	\$1,462.01	777 7

Fill in amount completely

\$.

☐ Yes, I have moved or I have changed my email address. Check the box and submit changes on the reverse side.

Minimum payment due includes \$39.00 past due.
 Please pay minimum payment amount PROMPTLY.



TAL FLOWERS JR
 3345 HABERSHAM RD
 MONTGOMERY AL 36109-4317

280486

Make Payments to: LOWE'S
 P.O. BOX 530914
 ATLANTA, GA 30353-0914



00041000010000 000800000146201000 7982220010372777 03



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ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB

Access Fifty Checking

1/10/2006 thru 2/07/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 1/10	\$648.99
Deposits and other credits	3,433.38 +
Checks	1,580.24
Automated Checks	1,773.68
Other withdrawals and service fees	202.00 -
Closing balance 2/07	\$526.45

Deposits and Other Credits

Date	Amount	Description
1/13	893.81	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060113 PPD MISC-1280
1/18	1,171.00	AUTOMATED CREDIT US TREASURY 303 SOC SEC CO. ID. 3031036030 060118 PPD
1/23	200.00	DEPOSIT
1/30	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060130 PPD
2/06	275.00	DEPOSIT
Total	\$3,433.38	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
7121	24.86	1/11	7137	31.90	1/27	7145*	93.53	2/02
7130*	90.00	1/18	7138	15.00	1/27	7146	91.44	2/06
7131	109.12	1/13	7139	24.86	1/31	7148*	300.00	2/03
7134*	300.00	1/19	7140	8.46	1/31	7149	35.00	2/03
7135	100.00	1/25	7141	25.00	2/03	Total	\$1,580.24	
7136	194.00	1/26	7143*	137.07	1/31			

* Indicates a break in check number sequence (checks could be listed under Automated Checks)

**Access Fifty Checking**

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WACHOVIA**Automated Checks**

Number	Amount	Date	Description
7129	100.00	1/10	AUTOMATED CHECK SEARS PAYMENT CHECK PYMT CO. ID. CITI SEARS 060110 ARC MISC 7129
7132	749.84	1/25	AUTOMATED CHECK WFHM MORTGAGE CHECKPAYMT CO. ID. 6708044134 060125 ARC MISC 7132
7133	200.00	1/18	AUTOMATED CHECK DISCOVER ARC PAYMENTS CO. ID. 5510020270 060118 ARC MISC 7133
7142	75.00	2/01	AUTOMATED CHECK LOWES/GEMB CHECKPAYMT CO. ID. 0818200406 060201 ARC MISC 7142
7144	128.84	1/31	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 060131 ARC MISC 7144
7147	520.00	2/06	AUTOMATED CHECK MBNA/IBS CHECK PYMT CO. ID. 2200000001 060206 ARC MISC 7147
Total	\$1,773.68		

Other Withdrawals and Service Fees

Date	Amount	Description
1/17	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-004985
1/30	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060130 PPD
2/06	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-007009
2/07	2.00	SERVICE FEE
2/07	50.00	AUTOMATED DEBIT 294 LMVTX INVESTMENT CO. ID. 1521250327 060207 PPD
Total	\$202.00	

Service Fees

Description	Quantity	Amount	Total
CHECK ENCLOSURE FEE	1	2.00	2.00
Total Fee(s)			\$2.00

Average balance
Minimum balance**\$1,277.04**
\$524.13



Access Fifty Checking

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WACHOVIA



ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB

Access Fifty Checking

2/08/2006 thru 3/08/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 2/08	\$526.45
Deposits and other credits	4,548.14 +
Checks	1,747.09 -
Automated Checks	1,838.21 -
Other withdrawals and service fees	252.00
Closing balance 3/08	\$1,237.29

Deposits and Other Credits

Date	Amount	Description
2/09	100.00	DEPOSIT
2/14	308.00	AUTOMATED CREDIT STATE OF ALABAMA II REFUNDS CO. ID: 9260000121 060214 PPD
2/15	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID: 630400591 060215 PPD
2/15	1,083.00	AUTOMATED CREDIT US TREASURY 303 SOC SEC CO. ID: 3031036030 060215 PPD
2/17	1,270.00	AUTOMATED CREDIT US TREASURY 220 TAX REFUND CO. ID: 3111036170 060217 PPD
2/28	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID: 630400591 060228 PPD
Total	\$4,548.14	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
7151	110.00	2/08	7159	73.52	2/28	7166	91.44	3/06
7153*	90.00	2/14	7160	77.79	2/28	7167	137.07	3/01
7154	109.25	2/14	7161	84.16	3/01	7170*	110.00	3/08
7157*	300.00	2/22	7163*	24.86	3/03	7171	310.00	3/08
7158	194.00	2/24	7165*	35.00	3/01	Total	\$1,747.09	

* Indicates a break in check number sequence (checks could be listed under Automated Checks)



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Automated Checks

Number	Amount	Date	Description
7150	13.97	2/08	AUTOMATED CHECK SCHOLASTIC PAYMENT CO. ID. 1131912013 060208 ARC MISC 7150
7152	100.00	2/08	AUTOMATED CHECK SEARS PAYMENT CHECK PYMT CO. ID. CITI SEARS 060208 ARC MISC 7152
7155	782.96	2/21	AUTOMATED CHECK WFHM MORTGAGE CHECKPAYMT CO. ID. 6708044134 060221 ARC MISC 7155
7156	200.00	2/21	AUTOMATED CHECK DISCOVER ARC PAYMENTS CO. ID. 5510020270 060221 ARC MISC 7156
7162	13.97	3/01	AUTOMATED CHECK SCHOLASTIC PAYMENT CO. ID. 1131912013 060301 ARC MISC 7162
7164	100.00	2/28	AUTOMATED CHECK LOWES/GEMB CHECKPAYMT CO. ID. 0818200406 060228 ARC MISC 7164
7168	475.00	3/03	AUTOMATED CHECK MBNA/IBS CHECK PYMT CO. ID. 2200000001 060303 ARC MISC 7168
7169	152.31	3/06	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 060306 ARC MISC 7169
Total	\$1,838.21		

Other Withdrawals and Service Fees

Date	Amount	Description
2/15	0.00	AUTOMATED DEBIT SMITH BARNEY 1702210222 CO. ID. 2131912900 060215 PPD
2/23	100.00	WITHDRAWAL DALRAIDA 02/23 3949 ATLANTA HIGH MONTGOMERY AL 7028W008941
3/02	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060302 PPD
3/08	2.00	SERVICE FEE
Total	\$252.00	

Service Fees

Description	Quantity	Amount	Total
CHECK ENCLOSURE FEE	1	2.00	2.00
Total Fee(s)			\$2.00

Average balance
Minimum balance\$1,973.33
\$302.48

**Access Fifty Checking**

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ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB

Access Fifty Checking

3/09/2006 thru 4/07/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 3/09	\$1,237.29
Deposits and other credits	3,070.14 +
Checks	1,647.93 -
Automated Checks	1,782.51 -
Other withdrawals and service fees	202.00 -
Closing balance 4/07	\$674.99

Deposits and Other Credits

Date	Amount	Description
3/13	200.00	DEPOSIT
3/15	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060315 PPD
3/15	1,083.00	AUTOMATED CREDIT US TREASURY 303 SOC SEC CO. ID. 3031036030 060315 PPD
3/30	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060330 PPD
Total	\$3,070.14	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
7173	90.00	3/14	7183	19.68	3/29	7193*	91.44	4/04
7174	109.25	3/13	7185*	167.00	3/27	7195*	68.51	4/04
7177*	175.29	3/20	7186	14.29	3/27	7197*	110.00	4/06
7179*	161.34	3/16	7187	35.74	3/27	7198	102.91	4/07
7180	16.43	3/22	7188	23.45	3/29	Total	\$1,647.93	
7181	20.00	3/22	7189	5.53	3/30			
7182	300.00	3/24	7191*	137.07	3/30			

* Indicates a break in check number sequence (checks could be listed under Automated Checks)



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Automated Checks

Number	Amount	Date	Description
7172	100.00	3/13	AUTOMATED CHECK SEARS PAYMENT CHECK PYMT CO. ID. CITI SEARS 060313 ARC MISC 7172
7175	13.97	3/16	AUTOMATED CHECK SCHOLASTIC PAYMENT CO. ID. 1131912013 060316 ARC MISC 7175
7176	782.96	3/17	AUTOMATED CHECK WFHM MORTGAGE CHECKPAYMT CO. ID. 6708044134 060317 ARC MISC 7176
7178	200.00	3/20	AUTOMATED CHECK DISCOVER ARC PAYMENTS CO. ID. 5510020270 060320 ARC MISC 7178
7184	13.97	3/28	AUTOMATED CHECK SCHOLASTIC PAYMENT CO. ID. 1131912013 060328 ARC MISC 7184
7190	100.00	4/03	AUTOMATED CHECK LOWES/GEMB CHECKPAYMT CO. ID. 0818200406 060403 ARC MISC 7190
7192	121.61	4/03	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 060403 ARC MISC 7192
7194	450.00	4/04	AUTOMATED CHECK MBNA/BS CHECK PYMT CO. ID. 2200000001 060404 ARC MISC 7194
Total	\$1,782.51		

Other Withdrawals and Service Fees

Date	Amount	Description
3/09	50.00	AUTOMATED DEBIT SMITH BARNEY AFT CO. ID. 1131912900 060309 PPD
3/13	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-000744
3/30	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060330 PPD
4/07	2.00	SERVICE FEE
Total	\$202.00	

Service Fees

Description	Quantity	Amount	Total
CHECK ENCLOSURE FEE	1	2.00	2.00
Total Fee(s)			\$2.00

Average balance \$1,513.58
 Minimum balance \$676.99



WACHOVIA

Access Fifty Checking

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ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB

Access Fifty Checking

4/08/2006 thru 5/08/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 4/08	\$674.99
Deposits and other credits	3,070.14 +
Checks	1,990.94 -
Automated Checks	955.64 -
Other withdrawals and service fees	207.00
Closing balance 5/08	\$591.55

Deposits and Other Credits

Date	Amount	Description
4/14	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060414 PPD
4/19	1,083.00	AUTOMATED CREDIT US TREASURY 303 SOC SEC CO. ID. 3031036030 060419 PPD
4/28	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060428 PPD
5/08	200.00	DEPOSIT
Total	\$3,070.14	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
7196	300.00	4/10	7207	300.00	4/18	7214	91.44	5/03
7200*	24.86	4/17	7208	85.62	4/18	7215	78.52	5/03
7201	90.00	4/19	7209	130.90	4/25	7218*	110.00	5/02
7202	109.25	4/11	7210	45.00	5/01	7220*	34.97	5/03
7203	86.25	4/14	7211	167.00	4/27	Total	\$1,990.94	
7206*	200.00	4/18	7213*	137.13	5/02			

* Indicates a break in check number sequence (checks could be listed under Automated Checks)



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Automated Checks

Number	Amount	Date	Description
7199	100.00	4/11	AUTOMATED CHECK SEARS PAYMENT CHECK PYMT CO. ID. CITI SEARS 060411 ARC MISC 7199
7204	13.97	4/20	AUTOMATED CHECK SCHOLASTIC PAYMENT CO. ID. 1131912013 060420 ARC MISC 7204
7205	19.96	4/21	AUTOMATED CHECK SCHOLASTIC PAYMENT CO. ID. 1131912013 060421 ARC MISC 7205
7212	100.00	5/01	AUTOMATED CHECK LOWES/GEMB CHECKPAYMT CO. ID. 0818200406 060501 ARC MISC 7212
7216	196.71	5/02	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 060502 ARC MISC 7216
7217	40.00	5/02	AUTOMATED CHECK DILLARD'S PYMT CO. ID. 0818200413 060502 ARC MISC 7217
7219	485.00	5/02	AUTOMATED CHECK MBNA/IBS CHECK PYMT CO. ID. 2200000001 060502 ARC MISC 7219
Total	\$955.64		

Other Withdrawals and Service Fees

Date	Amount	Description
4/10	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-004479
4/11	50.00	AUTOMATED DEBIT SMITH BARNEY AFT CO. ID. 1131912900 060411 PPD
4/18	5.00	AUTOMATED DEBIT DELUXE CHECK CHECK/ACC. CO. ID. 1410216800 060418 CGD MISC
4/28	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-006708
4/28	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060428 PPD
5/08	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-008054
5/08	2.00	SERVICE FEE
Total	\$207.00	



Access Fifty Checking

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ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB



Access Fifty Checking

5/09/2006 thru 6/07/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 5/09	\$591.55
Deposits and other credits	4,670.14 +
Checks	2,001.20 -
Automated Checks	1,977.41 -
Other withdrawals and service fees	332.00
Closing balance 6/07	\$951.08

Deposits and Other Credits

Date	Amount	Description
5/15	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060515 PPD
5/17	1,083.00	AUTOMATED CREDIT US TREASURY 303 SOG SEC CO. ID. 3031036030 060517 PPD
5/30	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060530 PPD
6/01	800.00	DEPOSIT
6/01	1,000.00	DEPOSIT
Total	\$4,670.14	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
7221	360.00	5/09	7230	30.00	5/22	7236	137.13	6/02
7224*	40.92	5/12	7231	120.00	5/25	7238*	91.44	6/07
7225	90.00	5/12	7232	24.86	6/07	7240*	97.00	6/01
7226	109.33	5/12	7233	167.00	5/30	7242*	360.00	6/05
7229*	300.00	5/19	7235*	73.52	6/02	Total	\$2,001.20	

* Indicates a break in check number sequence (checks could be listed under Automated Checks)



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WACHOVIA

Automated Checks

Number	Amount	Date	Description
7222	13.97	5/12	AUTOMATED CHECK SCHOLASTIC PAYMENT CO. ID. 1131912013 060512 ARC MISC 7222
7223	130.00	5/15	AUTOMATED CHECK SEARS PAYMENT CHECK PYMT CO. ID. CITI SEARS 060515 ARC MISC 7223
7227	773.28	5/17	AUTOMATED CHECK WFHM MORTGAGE CHECKPAYMT CO. ID. 6708044134 060517 ARC MISC 7227
7228	200.00	5/22	AUTOMATED CHECK DISCOVER ARC PAYMENTS CO. ID. 5510020270 060522 ARC MISC 7228
7234	50.00	5/31	AUTOMATED CHECK LOWES/GEMB CHECKPAYMT CO. ID. 0818200406 060531 ARC MISC 7234
7237	150.16	6/05	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 060605 ARC MISC 7237
7239	25.00	6/02	AUTOMATED CHECK DILLARD'S PYMT CO. ID. 0818200413 060602 ARC MISC 7239
7241	505.00	6/05	AUTOMATED CHECK MBNA/IBS CHECK PYMT CO. ID. 2200000001 060605 ARC MISC 7241
7243	130.00	6/07	AUTOMATED CHECK SEARS PAYMENT CHECK PYMT CO. ID. CITI SEARS 060607 ARC MISC 7243
Total	\$1,977.41		

Other Withdrawals and Service Fees

Date	Amount	Description
5/11	50.00	AUTOMATED DEBIT SMITH BARNEY AFT CO. ID. 1131912900 060511 PPD
5/12	90.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 3 TRANSACTION(S) AT \$30.00
5/17	40.00	WITHDRAWAL DALRAIDA 05/17 3949 ATLANTA HIGH MONTGOMERY AL 7028W009099
5/30	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-000694
5/31	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060531 PPD
6/01	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-001105
6/07	2.00	SERVICE FEE
Total	\$332.00	



WACHOVIA

Access Fifty Checking

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283 40

17 104

1,659



ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB

Access Fifty Checking

6/08/2006 thru 7/10/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 6/08	\$951.08
Deposits and other credits	2,870.14 +
Checks	2,234.75
Automated Checks	1,659.26
Other withdrawals and service fees	327.00 -
Closing balance 7/10	\$399.79 -

Deposits and Other Credits

Date	Amount	Description
6/15	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060615 PPD
6/21	1,083.00	AUTOMATED CREDIT US TREASURY 303 SOC SEC CO. ID. 3031036030 060621 PPD
6/30	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060630 PPD
Total	\$2,870.14	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
7244	54.29	6/20	7251	350.00	6/26	7260*	91.44	7/05
7245	109.60	6/23	7252	161.34	6/22	7263*	70.53	7/03
7246	140.90	6/22	7253	38.72	6/21	7264	93.53	7/06
7247	90.00	7/03	7254	68.27	6/27	7266*	325.00	7/05
7248	40.00	6/26	7255	167.00	6/29	7267	97.00	7/05
7250*	200.00	6/26	7258*	137.13	6/30	Total	\$2,234.75	

* Indicates a break in check number sequence (checks could be listed under Automated Checks)

**Access Fifty Checking**

02

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1,660

WACHOVIA**Automated Checks**

Number	Amount	Date	Description
7249	773.28	6/23	AUTOMATED CHECK WFHM MORTGAGE CHECKPAYMT CO. ID. 6708044134 060623 ARC MISC 7249
7256	100.00	7/03	AUTOMATED CHECK LOWES/GEMB CHECKPAYMT CO. ID. 0818200406 060703 ARC MISC 7256
7259	39.44	7/07	AUTOMATED CHECK LIBERTY NATIONAL INS PYMT CO. ID. 1630124600 060707 ARC MISC 7259
7261	199.53	7/03	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 060703 ARC MISC 7261
7262	37.01	7/03	AUTOMATED CHECK DILLARD'S PYMT CO. ID. 0818200413 060703 ARC MISC 7262
7265	510.00	7/05	AUTOMATED CHECK MBNA/IBS CHECK PYMT CO. ID. 2200000001 060705 ARC MISC 7265

Total	\$1,659.26
--------------	-------------------

Other Withdrawals and Service Fees

Date	Amount	Description
6/09	50.00	AUTOMATED DEBIT SMITH BARNEY AFT CO. ID. 1131912900 060609 PPD
6/19	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-003382
6/29	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060629 PPD
7/05	60.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 2 TRANSACTION(S) AT \$30.00
7/06	30.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 1 TRANSACTION(S) AT \$30.00
7/07	35.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 1 TRANSACTION(S) AT \$35.00
7/10	2.00	SERVICE FEE

Total	\$327.00
--------------	-----------------

Service Fees

Description	Quantity	Amount	Total
CHECK ENCLOSURE FEE	1	2.00	2.00

Total Fee(s)	\$2.00
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Average balance	\$1,043.87
Minimum balance	\$397.79 -



WACHOVIA

Access Fifty Checking

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1,618



ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB

Access Fifty Checking

7/11/2006 thru 8/08/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 7/11	\$399.79 -
Deposits and other credits	3,154.13 +
Checks	1,298.64 -
Automated Checks	1,813.42 -
Other withdrawals and service fees	832.00 -
Closing balance 8/08	\$1,189.72

Deposits and Other Credits

Date	Amount	Description
7/12	283.99	DEPOSIT
7/14	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060714 PPD
7/19	1,083.00	AUTOMATED CREDIT US TREASURY 303 SOC SEC CO. ID. 3031036030 060719 PPD
7/28	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060728 PPD
Total	\$3,154.13	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
7257	24.86	7/12	7273*	112.12	7/18	7280	98.53	8/02
7268*	25.00	7/13	7275*	380.00	7/21	7281	91.44	8/02
7270*	60.00	7/11	7276	167.00	7/25	7282	97.00	8/01
7271	90.00	7/18	7279*	152.69	7/31	Total	\$1,298.64	

* Indicates a break in check number sequence

(checks could be listed under Automated Checks)



Access Fifty Checking

02

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Automated Checks

Number	Amount	Date	Description
7269	100.00	7/11	AUTOMATED CHECK SEARS PAYMENT CHECK PYMT CO. ID. CITI SEARS 060711 ARC MISC 7269
7272	740.16	7/18	AUTOMATED CHECK WFHM MORTGAGE CHECKPAYMT CO. ID. 6708044134 060718 ARC MISC 7272
7274	250.00	7/21	AUTOMATED CHECK DISCOVER ARC PAYMENTS CO. ID. 5510020270 060721 ARC MISC 7274
7277	100.00	8/01	AUTOMATED CHECK LOWES/GEMB CHECKPAYMT CO. ID. 0818200406 060801 ARC MISC 7277
7278	93.26	7/31	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 060731 ARC MISC 7278
7283	530.00	8/02	AUTOMATED CHECK MBNA/IBS CHECK PYMT CO. ID. 2200000002 060802 ARC MISC 7283
Total	\$1,813.42		

Other Withdrawals and Service Fees

Date	Amount	Description
7/11	50.00	AUTOMATED DEBIT SMITH BARNEY AFT CO. ID. 1131912900 060711 PPD
7/11	105.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 3 TRANSACTION(S) AT \$35.00
7/12	35.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 1 TRANSACTION(S) AT \$35.00
7/13	35.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 1 TRANSACTION(S) AT \$35.00
7/18	105.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 3 TRANSACTION(S) AT \$35.00
7/21	70.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 2 TRANSACTION(S) AT \$35.00
7/25	35.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 1 TRANSACTION(S) AT \$35.00
7/28	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060728 PPD
7/31	35.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 1 TRANSACTION(S) AT \$35.00
8/01	70.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 2 TRANSACTION(S) AT \$35.00

Other Withdrawals and Service Fees continued on next page.



WACHOVIA

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1,611

ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB

Access Fifty Checking

8/09/2006 thru 9/07/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 8/09	\$1,189.72
Deposits and other credits	6,892.55 +
Checks	1,019.16
Automated Checks	1,753.74
Other withdrawals and service fees	507.00 -
Closing balance 9/07	\$2,422.93

Deposits and Other Credits

Date	Amount	Description
8/15	22.41	ACCOUNT TRANSFER TRANSFER FROM: 3000489770547 PARTIAL COLLECTION OF OVERDRAFT AMOUNT PLEASE CALL 866-211-6980 WITH QUESTIONS
8/15	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060815 PPD
8/16	1,083.00	AUTOMATED CREDIT US TREASURY 303 SOC SEC CO. ID. 3031036030-060816 PPD
8/16	4,000.00	DEPOSIT
8/30	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID. 630400591 060830 PPD
Total	\$6,892.55	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
7286	90.00	8/18	7293	24.86	8/28	7299	97.00	8/31
7287	150.00	8/22	7294	200.00	8/22	7300	91.44	9/06
7288	91.28	8/21	7297*	147.05	8/28	Total	\$1,019.16	
7292*	34.00	8/22	7298	93.53	9/05			

* Indicates a break in check number sequence (checks could be listed under Automated Checks)



WACHOVIA

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1,612

Automated Checks

Number	Amount	Date	Description
7285	125.00	8/14	AUTOMATED CHECK SEARS PAYMENT CHECK PYMT CO. ID. CITI SEARS 060814 ARC MISC 7285
7289	773.28	8/22	AUTOMATED CHECK WFHM MORTGAGE CHECKPAYMT CO. ID. 6708044134 060822 ARC MISC 7289
7290	200.00	8/21	AUTOMATED CHECK DISCOVER ARC PAYMENTS CO. ID. 5510020270 060821 ARC MISC 7290
7291	350.00	8/21	AUTOMATED CHECK CHASE CHECK PYMT CO. ID. 9200602070 060821 ARC MISC 7291
7295	100.00	8/29	AUTOMATED CHECK LOWES/GEMB CHECKPAYMT CO. ID. 0818200406 060829 ARC MISC 7295
7296	205.46	8/29	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 060829 ARC MISC 7296
Total	\$1,753.74		

Other Withdrawals and Service Fees

Date	Amount	Description
8/10	35.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 1 TRANSACTION(S) AT \$35.00
8/10	50.00	AUTOMATED DEBIT SMITH BARNEY AFT CO. ID. 1131912900 060810 PPD
8/11	35.00	NSF FEE FOR ITEM 000000007284, \$320.00 AUTOMATED CHECK CHASE RDP CHECK
8/14	35.00	OVERDRAFT/UNAVAILABLE FUNDS FEE 1 TRANSACTION(S) AT \$35.00
8/18	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-000798
8/18	100.00	WITHDRAWAL DALRAIDA 08/18 3949 ATLANTA HIGH MONTGOMERY AL 7028W000799
8/28	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-001754
8/28	100.00	WITHDRAWAL DALRAIDA 08/25 3949 ATLANTA HIGH MONTGOMERY AL 7028W001755
8/30	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060830 PPD
9/07	0.00	INQUIRY 3949 ATLANTA HIGHWAY 7028-003344
9/07	2.00	SERVICE FEE
Total	\$507.00	



Access Fifty Checking

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WACHOVIA



ARTHUR T FLOWERS OR
SUZANNE FLOWERS
3345 HABERSHAM ROAD
MONTGOMERY AL 36109

PB

Access Fifty Checking

9/08/2006 thru 10/10/2006

Account number:

Account owner(s):

ARTHUR T FLOWERS OR
SUZANNE FLOWERS

Account Summary

Opening balance 9/08	\$2,422.93
Deposits and other credits	2,870.14 +
Checks	2,244.07 -
Automated Checks	135.11 -
Other withdrawals and service fees	199.44 -
Closing balance 10/10	\$2,714.45

Deposits and Other Credits

Date	Amount	Description
9/15	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID: 630400591 060915 PPD
9/20	1,083.00	AUTOMATED CREDIT US TREASURY 303 SOC SEC CO. ID: 3031036030 060920 PPD
9/29	893.57	AUTOMATED CREDIT FAMILY GUIDANCE PAYROLL DI CO. ID: 630400591 060929 PPD
Total	\$2,870.14	

Checks

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
0000	500.45	9/12	7310	20.09	9/19	7321*	147.05	9/28
0000	135.52	9/15	7311	161.34	9/20	7322	50.05	10/03
7301*	90.00	9/15	7312	13.18	9/25	7323	92.06	10/05
7302	18.69	9/19	7313	222.00	9/26	7324	83.52	10/04
7303	35.00	9/11	7314	41.76	9/26	7325	97.00	10/04
7304	69.00	9/11	7315	27.57	9/26	7326	26.44	10/03
7306*	36.56	9/12	7316	42.35	9/28	7327	22.54	10/04
7307	138.00	9/14	7317	41.23	9/27	7328	62.57	10/04
7309*	45.10	9/19	7319*	25.00	9/27	Total	\$2,244.07	

* Indicates a break in check number sequence (checks could be listed under Automated Checks)



Access Fifty Checking

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1,719

Automated Checks

Number	Amount	Date	Description
7320	135.11	10/02	AUTOMATED CHECK BP PAYMENT CHECK PYMT CO. ID. CITI OILS 061002 ARC MISC 7320
Total	\$135.11		

Other Withdrawals and Service Fees

Date	Amount	Description
9/25	47.44	PURCHASE WAL-MART #5348 09/23 MONTGOMERY AL 70281206654
9/28	150.00	AUTOMATED DEBIT ALFA LIFE ALFA LIFE CO. ID. 1630338648 060928 PPD
10/10	2.00	SERVICE FEE
Total	\$199.44	

Service Fees

Description	Quantity	Amount	Total
CHECK ENCLOSURE FEE	1	2.00	2.00
Total Fee(s)			\$2.00

Average balance
Minimum balance\$2,673.33
\$1,643.92

Wachovia Online Statements Now Available:

Sign up for free Online Statements today to view, print and save up to 16 months of your bank statements. To sign up for Online Statements, simply log in to Online Banking at wachovia.com and select View Paper Statements. Not an Online Banking Customer? Enroll in Online Banking today at wachovia.com/enroll or by calling 800-950-2296.

Form **1040A** U.S. Individual Income Tax Return (99) **2005** IRS Use Only — Do not write or staple in this space.

Department of the Treasury — Internal Revenue Service

Label (See instructions.)

Your first name and initial Last name

ARTHUR T FLOWERS

OMB No. 1545-0074

Use the IRS label. Otherwise, please print or type.

If a joint return, spouse's first name and initial Last name

KATHRYN S FLOWERS

Your social security number

Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions. Apartment no.

3345 HABERSHAM RD

City, town or post office. If you have a foreign address, see instructions. State ZIP code

MONTGOMERY AL 36109

▲ You must enter your SSN(s) above ▲

Checking a box below will not change your tax or refund

Presidential Election Campaign

► Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see instructions) ... ☐ You ☐ Spouse

Filing status

1 ☐ Single

2 ☒ Married filing jointly (even if only one had income)

3 ☐ Married filing separately. Enter spouse's SSN above and full name here ►

4 ☐ Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here ►

5 ☐ Qualifying widow(er) with dependent child (see instructions)

Check only one box.

Exemptions

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a

Boxes checked on 6a and 6b 2

b ☒ Spouse

c Dependents:

(1) First name Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit	No. of children on 6c who: • lived with you • did not live with you due to divorce or separation
			<input type="checkbox"/>	
			<input type="checkbox"/>	
			<input type="checkbox"/>	
			<input type="checkbox"/>	
			<input type="checkbox"/>	
			<input type="checkbox"/>	

Dependents on 6c not entered above

d Total number of exemptions claimed Add numbers on lines above ► 2

Income

7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 26,585.

8a Taxable interest. Attach Schedule 1 if required 8a 1.

b Tax-exempt interest. Do not include on line 8a 8b

9a Ordinary dividends. Attach Schedule 1 if required 9a

b Qualified dividends (see instructions) 9b

10 Capital gain distributions (see instructions) 10

11a IRA distributions 11a 11b Taxable amount 11b

12a Pensions and annuities 12a 12b Taxable amount 12b

13 Unemployment compensation and Alaska Permanent Fund dividends 13

14a Social security benefits 14a 13,500. 14b Taxable amount 14b 668.

15 Add lines 7 through 14b (far right column). This is your total income 15 27,254.

16 Educator expenses (see instructions) 16

17 IRA deduction (see instructions) 17

18 Student loan interest deduction (see instructions) 18

19 Tuition and fees deduction (see instructions) 19

20 Add lines 16 through 19. These are your total adjustments 20

21 Subtract line 20 from line 15. This is your adjusted gross income 21 27,254.

Adjusted gross income

Attach Form(s) W-2 here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

Enclose, but do not attach, any payment.

BAA, For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see instructions.

Form 1040A (2005)

5

Form 1040A (2005) ARTHUR T & KATHRYN S FLOWERS

Page 2

Tax, credits, and payments**Standard Deduction for —**

- People who checked any box on line 23a or 23b or who can be claimed as a dependent, see instructions.
- All others:

- Single or Married filing separately, \$5,000

- Married filing jointly or Qualifying widow(er), \$10,000

- Head of Household, \$7,300

If you have a qualifying child, attach Schedule EIC.

22 Enter the amount from line 21 (adjusted gross income) 22 27,254.

23a Check ☐ You were born before January 2, 1941, ☐ Blind ☐ Total boxes checked ☐ 23a ☐
 if: ☐ Spouse was born before January 2, 1941, ☐ Blind

b If you are married filing separately and your spouse itemizes deductions, see instructions and check here. 23b ☐

24 Enter your **standard deduction** (see left margin) 24 10,000.

25 Subtract line 24 from line 22. If line 24 is more than line 22, enter -0- 25 17,254.

26 If line 22 is over \$109,475, or you provided housing to a person displaced by Hurricane Katrina, see instructions. Otherwise, multiply \$3,200 by the total number of exemptions claimed on line 6d 26 6,400.

27 Subtract line 26 from line 25. If line 26 is more than line 25, enter -0-. This is your **taxable income** 27 10,854.28 **Tax**, including any alternative minimum tax (see instructions) 28 1,088.

29 Credit for child and dependent care expenses. Attach Schedule 2 29

30 Credit for the elderly or the disabled. Attach Schedule 3 30

31 Education credits. Attach Form 8863 31

32 Retirement savings contributions credit. Attach Form 8880 32 300.

33 Child tax credit (see instructions). Attach Form 8901 if required. 33

34 Adoption credit. Attach Form 8839 34

35 Add lines 29 through 34. These are your **total credits** 35 300.

36 Subtract line 35 from line 28. If line 35 is more than line 28, enter -0- 36 788.

37 Advance earned income credit payments from Form(s) W-2 37

38 Add lines 36 and 37. This is your **total tax** 38 788.

39 Federal income tax withheld from Forms W-2 and 1099 39 2,058.

40 2005 estimated tax payments and amount applied from 2004 return 40

41a **Earned income credit (EIC)** 41a

b Nontaxable combat pay election. 41b

42 Additional child tax credit. Attach Form 8812 42

43 Add lines 39, 40, 41a, and 42. These are your **total payments** 43 2,058.**Refund**44 If line 43 is more than line 38, subtract line 38 from line 43. This is the amount you **overpaid** 44 1,270.45a Amount of line 44 you want **refunded to you** 45a 1,270.

► b Routing number c Type: ☒ Checking ☐ Savings

► d Account number

46 Amount of line 44 you want **applied to your 2006 estimated tax** 46**Amount you owe**47 **Amount you owe.** Subtract line 43 from line 38. For details on how to pay, see instructions 47

48 Estimated tax penalty (see instructions) 48

Third party designeeDo you want to allow another person to discuss this return with the IRS (see instructions)? ☒ Yes. Complete the following. ☐ No

Designee's name ► Preparer

Phone no. ►

Personal identification number (PIN) ►

Sign here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of income I received during the tax year. Declaration of preparer (other than the taxpayer) is based on all information of which the preparer has any knowledge.

Your signature

Date

Your occupation

Daytime phone number

DISABLED

Joint return? See instructions. ►

Spouse's signature. If a joint return, both must sign.

Date

Spouse's occupation

MANAGER

Keep a copy for your records.

Paid preparer's use only

Preparer's signature ►

Date

Check if self-employed ☒

Preparer's SSN or PTIN

Firm's name (or yours if self-employed), address, and ZIP code

Professional Tax, LLC

1711 Taliaferro Trail

Montgomery

AL 36117

EIN 63-1274135

Phone no. (334) 396-3337

Form **8880****Credit for Qualified Retirement Savings Contributions**

OMB No. 1545-0074

Department of the Treasury
Internal Revenue Service

▶ Attach to Form 1040 or Form 1040A.

▶ See instructions.

2005Attachment
Sequence No. **129**

Name(s) shown on return

Your social security number

ARTHUR T & KATHRYN S FLOWERS

CAUTION: You **cannot** take this credit if **either** of the following applies.

- The amount on Form 1040, line 38, or Form 1040A, line 22, is more than \$25,000 (\$37,500 if head of household; \$50,000 if married filing jointly).
- The person(s) who made the qualified contribution or elective deferral **(a)** was born after January 1, 1988, **(b)** is claimed as a dependent on someone else's 2005 tax return, or **(c)** was a **student** (see instructions).

	(a) You	(b) Your spouse
1 Traditional and Roth IRA contributions for 2005. Do not include rollover contributions	600.	
2 Elective deferrals to a 401(k) or other qualified employer plan, voluntary employee contributions, and 501(c)(18)(D) plan contributions for 2005 (see instructions)		
3 Add lines 1 and 2	600.	
4 Certain distributions received after 2002 and before the due date (including extensions) of your 2005 tax return (see instructions). If married filing jointly, include both spouses' amounts in both columns. See instructions for an exception		
5 Subtract line 4 from line 3. If zero or less, enter -0-	600.	
6 In each column, enter the smaller of line 5 or \$2,000	600.	
7 Add the amounts on line 6. If zero, stop ; you cannot take this credit.		600.
8 Enter the amount from Form 1040, line 38*, or Form 1040A, line 22	27,254.	
9 Enter the applicable decimal amount shown below:		

If line 8 is—		And your filing status is—		
Over—	But not over—	Married filing jointly	Head of household	Single, Married filing separately, or Qualifying widow(er)
---	\$15,000	.5	.5	.5
\$15,000	\$16,250	.5	.5	.2
\$16,250	\$22,500	.5	.5	.1
\$22,500	\$24,375	.5	.2	.1
\$24,375	\$25,000	.5	.1	.1
\$25,000	\$30,000	.5	.1	.0
\$30,000	\$32,500	.2	.1	.0
\$32,500	\$37,500	.1	.1	.0
\$37,500	\$50,000	.1	.0	.0
\$50,000	---	.0	.0	.0

Note: If line 9 is zero, **stop**; you cannot take this credit.

10 Multiply line 7 by line 9		300.
11 Enter the amount from Form 1040, line 46, or Form 1040A, line 28	1,088.	
12 Enter the total of your credits from Form 1040, lines 47 through 50, or Form 1040A, lines 29 through 31		
13 Subtract line 12 from line 11. If zero, stop ; you cannot take this credit.		1,088.
14 Credit for qualified retirement savings contributions Enter the smaller of line 10 or line 13 here and on Form 1040, line 51, or Form 1040A, line 32		300.

*See Publication 590 for the amount to enter if you are filing Form 2555, 2555-EZ, or 4563 or you are excluding income from Puerto Rico.

BAA For Paperwork Reduction Act Notice, see instructions.

Form **8880** (2005)

Two-Year Comparison

2005

Name(s) Shown on Return ARTHUR T & KATHRYN S FLOWERS	Social Security Number
---	------------------------

Income	2004	2005	Difference	%
Wages, salaries, tips, etc	26,122.	26,585.	463.	1.77
Interest and dividend income	1.	1.	0.	0.00
State tax refund				
Business income (loss)				
Capital and other gains (losses)				
IRA distributions				
Pensions and annuities				
Rents and royalties				
Partnerships, Scorps, etc				
Farm income (loss)				
Social security benefits		668.	668.	
Income other than the above	-22,345.		22,345.	100.00
Total Income	3,778.	27,254.	23,476.	621.39
Adjustments to Income	600.		-600.	-100.00
Adjusted Gross Income	3,178.	27,254.	24,076.	757.58
Itemized Deductions				
Medical and dental	2,409.	508.	-1,901.	-78.91
Income or sales tax	860.	1,190.	330.	38.37
Real estate taxes	294.	294.	0.	0.00
Personal property and other taxes	16.	86.	70.	437.50
Interest paid	6,458.	7,012.	554.	8.58
Gifts to charity	803.	535.	-268.	-33.37
Casualty and theft losses				
Miscellaneous	111.		-111.	-100.00
Phaseout of itemized deductions				
Total Itemized Deductions	10,951.	9,625.	-1,326.	-12.11
Standard or Itemized Deduction	10,951.	10,000.	-951.	-8.68
Exemption Amount	6,200.	6,400.	200.	3.23
Taxable Income	0.	10,854.	10,854.	
Income tax	0.	1,088.	1,088.	
Additional income taxes				
Alternative minimum tax				
Total Income Taxes	0.	1,088.	1,088.	
Nonbusiness credits		300.	300.	
Business credits				
Total Credits		300.	300.	
Self-employment tax				
Other taxes				
Total Tax After Credits	0.	788.	788.	
Withholding	2,003.	2,058.	55.	2.75
Estimated and extension payments				
Earned income credit				
Additional child tax credit				
Other payments				
Total Payments	2,003.	2,058.	55.	2.75
Form 2210 penalty				
Applied to next year's estimated tax				
Refund	2,003.	1,270.	-733.	-36.60
Balance Due				

Current year effective tax rate 2.89 %

Tax History Report

2005

► Keep for your records

Name(s) Shown on Return	Social Security Number
ARTHUR T & KATHRYN S FLOWERS	

	Five Year Tax History:				
	2001	2002	2003	2004	2005
Filing status	MFJ	MFJ	MFJ	MFJ	MFJ
Total income	107,238.	16,926.	-22,304.	3,778.	27,254.
Adjustments to income			600.	600.	
Adjusted gross income	107,238.	16,926.	-22,904.	3,178.	27,254.
Tax expense	5,108.	1,886.	1,195.	1,170.	1,570.
Interest expense	13,384.	12,299.	11,900.	6,458.	7,012.
Contributions	170.	800.		803.	535.
Miscellaneous deductions			180.	111.	
Other itemized deductions		3,626.	1,957.	2,409.	508.
Total itemized/standard deduction	18,662.	18,611.	15,232.	10,951.	10,000.
Personal exemptions	5,800.	6,000.	6,100.	6,200.	6,400.
Taxable income	82,776.	0.	0.	0.	10,854.
Tax	17,113.				1,088.
Alternative minimum tax					
Total credits					300.
Other taxes	1,269.	107.			
Payments	18,531.	5,432.	2,429.	2,003.	2,058.
Form 2210 penalty					
Amount owed					
Applied to next year's estimated tax					
Refund	149.	5,325.	2,429.	2,003.	1,270.
Effective tax rate %	15.96	0.00	0.00	0.00	2.89

Tax Summary Report

2005

Name(s) Shown on Return ARTHUR T & KATHRYN S FLOWERS		Social Security Number
Filing status	Married Filing Jointly	Number of exemptions
		2
Gross Income		
Wages and salaries		26,585.
Interest and dividend income		1.
Business income (loss)		
Capital gains (losses)		
Pensions and annuities		
Rents, royalties, partnerships, etc		
Farm income (loss)		
Social security benefits		668.
Other income		
Total Gross Income		27,254.
Adjustments to Income		
Adjusted Gross Income	(Last year's AGI)	3,178. 27,254.
Itemized/Standard Deductions		
Medical		508.
Taxes		1,570.
Interest		7,012.
Contributions		535.
Casualty		
Miscellaneous		
Phaseout of itemized deductions		
Total Itemized Deductions		9,625.
Standard deduction		10,000.
Exemption amount		6,400.
Taxable Income		10,854.
Regular tax		1,088.
Alternative minimum tax		
Total Taxes before Credits		1,088.
Nonbusiness credits		300.
Business credits		
Total Credits		300.
Self-employment tax		
Other taxes		
Total Tax		788.
Withholding		2,058.
Estimated payments		
Other payments		
Total Payments		2,058.
Form 2210 penalty		
Refund applied to next year's estimated tax		
Refund		1,270.
Amount Due		0.
Effective tax rate		2.89 %

Department of the Treasury — Internal Revenue Service

Form **1040** U.S. Individual Income Tax Return **2004**

(99) IRS Use Only — Do not write or staple in this space.

Label
(See instructions.)Use the
IRS label.
Otherwise,
please print
or type.Presidential
Election
Campaign
(See instructions.)

For the year Jan 1 - Dec 31, 2004, or other tax year beginning , 2004, ending , 20		OMB No. 1545-0074
Your first name	MI Last name	Your social security number
ARTHUR	T FLOWERS	
If a joint return, spouse's first name	MI Last name	Spouse's social security number
KATHRYN	S FLOWERS	
Home address (number and street). If you have a P.O. box, see instructions.		Apartment no.
3345 HABERSHAM RD		
City, town or post office. If you have a foreign address, see instructions.		State ZIP code
MONTGOMERY		AL 36109

▲ Important! ▲
You must enter your social security number(s) above.

Note: Checking 'Yes' will not change your tax or reduce your refund.
Do you, or your spouse if filing a joint return, want \$3 to go to this fund? **You** ☐ Yes ☒ No **Spouse** ☐ Yes ☒ No

Filing Status

- 1 ☐ Single
2 ☒ Married filing jointly (even if only one had income)
3 ☐ Married filing separately. Enter spouse's SSN above & full name here . . .
4 ☐ Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here . . .
5 ☐ Qualifying widow(er) with dependent child (see instructions)

Check only one box.

Exemptions

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a
b ☒ Spouse

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see instrs)	No. of children on 6c who:
				<input type="checkbox"/>	• lived with you
				<input type="checkbox"/>	• did not live with you due to divorce or separation (see instrs)
				<input type="checkbox"/>	Dependents on 6c not entered above
				<input type="checkbox"/>	Add numbers on lines above

d Total number of exemptions claimed 2

If more than four dependents, see instructions.

Income

Attach Form(s)
W-2 here. Also
attach Forms
W-2G and 1099-R
if tax was withheld.If you did not
get a W-2,
see instructions.Enclose, but do
not attach, any
payment. Also,
please use
Form 1040-V.

7 Wages, salaries, tips, etc. Attach Form(s) W-2	7	26,122.
8a Taxable interest. Attach Schedule B if required	8a	1.
b Tax-exempt interest. Do not include on line 8a	8b	
9a Ordinary dividends. Attach Schedule B if required	9a	
b Qualified divs (see instrs)	9b	
10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions)	10	
11 Alimony received	11	
12 Business income or (loss). Attach Schedule C or C-EZ	12	
13 Capital gain or (loss). Att Sch D if reqd. If not reqd, ck here	13	
14 Other gains or (losses). Attach Form 4797	14	
15a IRA distributions	15a	
b Taxable amount (see instrs)	15b	
16a Pensions and annuities	16a	
b Taxable amount (see instrs)	16b	
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18 Farm income or (loss). Attach Schedule F	18	
19 Unemployment compensation	19	
20a Social security benefits	20a	
b Taxable amount (see instrs)	20b	
21 Other income <u>NET OPERATING LOSS</u>	21	-22,345.
22 Add the amounts in the far right column for lines 7 through 21. This is your total income. ▶	22	3,778.

Adjusted
Gross
Income

23 Educator expenses (see instructions)	23	
24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24	
25 IRA deduction (see instructions)	25	600.
26 Student loan interest deduction (see instructions)	26	
27 Tuition and fees deduction (see instructions)	27	
28 Health savings account deduction. Attach Form 8889	28	
29 Moving expenses. Attach Form 3903	29	
30 One-half of self-employment tax. Attach Schedule SE	30	
31 Self-employed health insurance deduction (see instrs)	31	
32 Self-employed SEP, SIMPLE, and qualified plans	32	
33 Penalty on early withdrawal of savings	33	
34a Alimony paid b Recipient's SSN	34a	
35 Add lines 23 through 34a	35	600.
36 Subtract line 35 from line 22. This is your adjusted gross income	36	3,178.

Form 1040 (2004) ARTHUR T & KATHRYN S FLOWERS

Page 2

Tax and Credits**Standard Deduction for —**

• People who checked any box on line 38a or 38b or who can be claimed as a dependent, see instructions.

• All others:

Single or Married filing separately, \$4,850

Married filing jointly or Qualifying widow(er), \$9,700

Head of household, \$7,150

37	Amount from line 36 (adjusted gross income)	37	3,178.
38a	Check if: <input type="checkbox"/> You were born before January 2, 1940, <input type="checkbox"/> Blind. <input type="checkbox"/> Spouse was born before January 2, 1940, <input type="checkbox"/> Blind. Total boxes checked 38a		
b	If your spouse itemizes on a separate return, or you were a dual-status alien, see instructions and check here 38b		
39	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	39	10,951.
40	Subtract line 39 from line 37	40	-7,773.
41	If line 37 is \$107,025 or less, multiply \$3,100 by the total number of exemptions claimed on line 6d. If line 37 is over \$107,025, see the worksheet in the instructions	41	6,200.
42	Taxable income. Subtract line 41 from line 40. If line 41 is more than line 40, enter -0-	42	0.
43	Tax (see instrs). Check if any tax is from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972	43	0.
44	Alternative minimum tax (see instructions). Attach Form 6251	44	
45	Add lines 43 and 44	45	0.
46	Foreign tax credit. Attach Form 1116 if required	46	
47	Credit for child and dependent care expenses. Attach Form 2441	47	
48	Credit for the elderly or the disabled. Attach Schedule R	48	
49	Education credits. Attach Form 8863	49	
50	Retirement savings contributions credit. Attach Form 8880	50	
51	Child tax credit (see instructions)	51	
52	Adoption credit. Attach Form 8839	52	
53	Credits from: a <input type="checkbox"/> Form 8396 b <input type="checkbox"/> Form 8859	53	
54	Other credits. Check applicable box(es): a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8801 c <input type="checkbox"/> Specify	54	
55	Add lines 46 through 54. These are your total credits	55	
56	Subtract line 55 from line 45. If line 55 is more than line 45, enter -0-	56	0.
57	Self-employment tax. Attach Schedule SE	57	
58	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	58	
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59	
60	Advance earned income credit payments from Form(s) W-2	60	
61	Household employment taxes. Attach Schedule H	61	
62	Add lines 56-61. This is your total tax	62	0.
63	Federal income tax withheld from Forms W-2 and 1099	63	2,003.
64	2004 estimated tax payments and amount applied from 2003 return	64	
65a	Earned income credit (EIC). No 65a		
b	Nontaxable combat pay election 65b		
66	Excess social security and tier 1 RRTA tax withheld (see instructions)	66	
67	Additional child tax credit. Attach Form 8812	67	
68	Amount paid with request for extension to file (see instructions)	68	
69	Other pmts from: a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136 c <input type="checkbox"/> Form 8885	69	
70	Add lines 63, 64, 65a, and 66 through 69. These are your total payments	70	2,003.
71	If line 70 is more than line 62, subtract line 62 from line 70. This is the amount you overpaid	71	2,003.
72a	Amount of line 71 you want refunded to you	72a	2,003.
b	Routing number		
c	Type: <input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings		
d	Account number		
73	Amount of line 71 you want applied to your 2005 estimated tax	73	
74	Amount you owe. Subtract line 70 from line 62. For details on how to pay, see instructions	74	
75	Estimated tax penalty (see instructions)	75	

Other Taxes**Payments**

If you have a qualifying child, attach Schedule EIC.

Refund

Direct deposit? See instructions and fill in 72b, 72c, and 72d.

Amount You Owe**Third Party Designee**

Do you want to allow another person to discuss this return with the IRS (see instructions)? ☒ Yes. Complete the following. ☐ No

Designee's name **Preparer**

Phone no.

Personal identification number (PIN)

Sign Here

Joint return? See instructions.

Keep a copy for your records.

Your signature

Date

Your occupation

Daytime phone number

DISABLED

Spouse's signature. If a joint return, both must sign.

Date

Spouse's occupation

MANAGER

Preparer's signature

Date

Check if self-employed ☒

Preparer's SSN or PTIN

Paid Preparer's Use Only

Firm's name (or yours if self-employed), address, and ZIP code

Professional Tax, LLC

1711 Taliaferro Trail

Montgomery

AL 36117

EIN 63-1274135

Phone no. (334) 396-3337

Form 1040 (2004)

SCHEDULE A

(Form 1040)

Itemized Deductions

OMB No. 1545-0074

2004

07

Department of the Treasury
Internal Revenue Service (99)▶ Attach to Form 1040.
▶ See Instructions for Schedule A (Form 1040).

Name(s) shown on Form 1040

Your social security number

ARTHUR T & KATHRYN S FLOWERS

Medical and Dental Expenses		Caution. Do not include expenses reimbursed or paid by others.			
1	Medical and dental expenses (see instructions)	1	2,647.		
2	Enter amount from Form 1040, line 37	2	3,178.		
3	Multiply line 2 by 7.5% (.075)	3	238.		
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4	2,409.		
Taxes You Paid					
5 State and local (check only one box):		5	860.		
a <input type="checkbox"/> Income taxes, or					
b <input checked="" type="checkbox"/> General sales taxes (see instructions)					
6	Real estate taxes (see instructions)	6	294.		
7	Personal property taxes	7	16.		
8	Other taxes. List type and amount ▶	8			
9	Add lines 5 through 8	9	1,170.		
Interest You Paid					
10	Home mtg interest and points reported to you on Form 1098	10	6,458.		
11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying number, and address ▶				
12	Points not reported to you on Form 1098. See instrs for spl rules	12			
13	Investment interest. Attach Form 4952 if required. (See instrs.)	13			
14	Add lines 10 through 13	14	6,458.		
Gifts to Charity					
15	Gifts by cash or check. If you made any gift of \$250 or more, see instructions	15	253.		
16	Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if over \$500	16	290.		
17	Carryover from prior year	17	260.		
18	Add lines 15 through 17	18	803.		
Casualty and Theft Losses					
19	Casualty or theft loss(es). Attach Form 4684. (See instructions.)	19			
Job Expenses and Most Other Miscellaneous Deductions					
20	Unreimbursed employee expenses— job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See instructions.) ▶	20			
21	Tax preparation fees	21	175.		
22	Other expenses— investment, safe deposit box, etc. List type and amount ▶	22			
23	Add lines 20 through 22	23	175.		
24	Enter amount from Form 1040, line 37	24	3,178.		
25	Multiply line 24 by 2% (.02)	25	64.		
26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	26	111.		
Other Miscellaneous Deductions					
27	Other— from list in the instructions. List type and amount ▶	27			
Total Itemized Deductions					
28	Is Form 1040, line 37, over \$142,700 (over \$71,350 if MFS)?	28	10,951.		
<input checked="" type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 39.					
<input type="checkbox"/> Yes. Your deduction may be limited. See instructions for the amount to enter.					

Schedule A & B (Form 1040) 2004

OMB No. 1545-0074

Page 2

Name(s) shown on Form 1040.

Your social security number

ARTHUR T & KATHRYN S FLOWERS

Schedule B – Interest and Ordinary Dividends

08

Part I
Interest(See instructions
for Form 1040,
line 8a.)

Note. If you
received a Form
1099-INT, Form
1099-OID, or
substitute statement
from a brokerage
firm, list the firm's
name as the payer
and enter the total
interest shown on
that form.

- 1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see the instructions and list this interest first. Also, show that buyer's social security number and address.

SOUTHTRUST BANK

Amount

1.

1

- 2 Add the amounts on line 1.

2

1.

- 3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815.

3

- 4 Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a.

4

1.

Note. If line 4 is over \$1,500, you must complete Part III.

Amount

Part II
Ordinary
Dividends(See
instructions for
Form 1040,
line 9a.)

Note. If you
received a Form
1099-DIV or
substitute statement
from a brokerage
firm, list the firm's
name as the payer
and enter the
ordinary dividends
shown on that form.

- 5 List name of payer.

5

- 6 Add the amounts on line 5. Enter the total here and on Form 1040, line 9a.

6

Note. If line 6 is over \$1,500, you must complete Part III.

Part III
Foreign
Accounts
and
Trusts(See
instructions.)

You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; or (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

Yes

No

- 7a At any time during 2004, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See instructions for exceptions and filing requirements for Form TD F 90-22.1.

- b If 'Yes,' enter the name of the foreign country.

- 8 During 2004, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If 'Yes,' you may have to file Form 3520. See instructions.

Form 1040
Line 21

Other Income Statement

2004
StatementName(s) Shown on Return
ARTHUR T & KATHRYN S FLOWERSSocial Security Number
[REDACTED]

	(a) Taxpayer	(b) Spouse
1 Child's investment income, from Form 8814		
2 Gambling winnings:		
a From Form W-2G		
b Not reported on Form W-2G		
3 Taxable income from Form 1099-MISC:		
a Substitute payments in lieu of interest or dividends		
b Other income, prizes, awards, etc.		
c Alaska Permanent Fund		
4 Taxable qualified tuition program distributions from Form 1099-Q		
5 Taxable Grants from Form 1099-G		
6 Taxable Coverdell ESA distributions from Form 1099-Q		
7 Foreign earned income and housing exclusion, from Form 2555		
8 Net operating loss carryover from a prior year.....SEE STMT	-11,173.	-11,172.
9 Other income, from Schedule(s) K-1		
10 Taxable distribution from:		
a Archer Medical Savings Accounts, and Long-Term Care Insurance Contracts, from Form 8853		
b Health Savings Accounts, from Form 8889		
11 Refunds or reimbursements of deductions claimed in a prior year:		
a Reimbursement for deducted medical expenses		
b Refunds of deducted taxes (other than state or local inc. taxes) (enter type of tax)		
c Recapture of deducted moving expenses		
d Reimbursement for deducted casualty or theft loss		
e Reimbursement for deducted employee business expenses		
f Other refunds or reimbursements		
12 Recoveries of bad debts deducted in a prior year		
13 Jury duty pay		
14 Bartering income not reported elsewhere		
15 Income from the rental of personal property		
16 Income from the Cancellation of Debt:		
a From Form 1099-C, Amount of debt canceled (see Tax Help) ...		
b From Schedule(s) K-1 (see Tax Help)		
17 Other taxable income:		
18 Total. Add lines 1 through 17. Enter here and on Form 1040, line 21	-11,173.	-11,172.

Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652
251-439-7400

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA AT MONTGOMERY**

In re:

Arthur T. Flowers, Jr.,

Debtor

MBNA America Bank, N.A.,

Plaintiff,

v.

Arthur T. Flowers, Jr.,

Defendant.

Bankruptcy Case No. 06-31560

ADV. NO. 07-03009

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO DEFENDANTS**

TO: Defendant, Arthur T. Flowers, Jr., and Defendant's attorney of record, Gail Donaldson:

INTERROGATORIES

In accordance with the Federal Rules of Civil Procedure, you are to fully answer, in writing under oath, each of the following Interrogatories, and return the completed set of original Interrogatories along with the answers to the undersigned attorney within thirty (30) days from the date these Interrogatories were served upon you. You are to answer in the spaces provided, inserting additional pages where necessary. You are also to verify or certify your answers under penalty of perjury in the location provided after the last Request For Production. These Interrogatories are continuing in nature until the time of trial, and any and all amendments to the answers provided are to be delivered to the undersigned attorney as soon as the information is either directly or indirectly available to you. Any information not supplied will be objected to at trial.

Each Interrogatory is required to be answered on the basis of your entire knowledge, including but not limited to all information in the possession of you, your directors, officers, agents, representatives, employees and attorneys. If any of the following Interrogatories cannot be answered in full, you are to answer to the fullest extent possible, specifying the

reason for your inability to answer the remainder, and stating whatever information or knowledge you do have concerning the unanswered portion. If your answer is qualified in any way, please set forth the details of such qualification.

REQUESTS FOR PRODUCTION OF DOCUMENTS

You are requested to produce any and all documents requested herein, and those documents referred to in your answers to the interrogatories within thirty (30) days following the date these requests were served upon you, no later than 2:00 p.m. in the law offices of Barry Friedman for purposes of inspection and copying or, in lieu thereof, to produce those same documents, or true and legible copies, within the same time-frame, by mail or other similarly reliable means to the law offices of Barry Friedman for purposes of inspection and copying.

All documents produced shall be set forth in the order kept in the ordinary course of business, and shall be labeled or otherwise specifically identified so as to correspond and be responsive to all appropriate answers to the Interrogatories and or Requests For Production. The Requests For Production shall be deemed to be continuing in nature, calling for prompt production by you of all documents which come into your possession, custody or control at any time prior to the conclusion of trial in this action, as well as all documents currently in your possession, custody or control.

DEFINITIONS, PROCEDURES AND INSTRUCTIONS

1. **Agent:** "Agent" means all persons, including but not limited to any representative authorized to act on the behalf of, or for the benefit of, another person.
2. **Balance Transfer:** "Balance transfer" means, without limitation, any event whereby any debt on one credit card is satisfied by establishing a corresponding debt by cash advance, convenience check or otherwise on another credit card.
3. **Communication:** "Communication" means a statement of any nature or description, whether oral or in writing, in which information was transmitted between two or more persons.
4. **Convenience Check:** "Convenience check" means any negotiable instrument which enables the credit card holder to make purchases or payments and have the debt incurred appear as a balance owing on the credit card through which the instrument was provided.
5. **Date or Period:** If you do not know the exact date or period, please supply an approximation.

- 1 6. **Document:** "Document" means, without limitation, the original and all non-
2 identical copies, whether different from the original by reason of notations thereon
3 or otherwise, and drafts of any kind or nature, regardless of origin or location, which
 pertain to the designated subject matter, and are now or were formerly in your actual
 or constructive possession, custody, care or control.

4 Without limitation of the term as used in the preceding sentence, a document is
5 deemed to be in your control if you have the right to secure it or a copy of it from the
6 person or public or private entity which has actual possession of it. If a document is
7 responsive to a request for identification or production, but it is not in your
 possession, custody or control, identify the person or entity that has possession,
 custody or control. If you do not have this information, state what disposition was
 made of the document, by whom, and the date or dates on which such disposition
 was made and why.

- 8 7. **Identification of Act:** "Describe," "state," "identify" or any forms thereof, when
9 used in reference to an act (including an alleged offense), occurrence, contact,
10 transaction, incident, decision, statement, communication or conduct (hereinafter
11 collectively called "act") means to describe in substance the event or events
 constituting such an act, what transpired, the place and date and the identification of
 both all the persons involved and the documents relating or referring thereto.

- 12 8. **Identification of Documents:** "Describe," "state," "identify," or any forms thereof,
13 when used in reference to a document, means to set forth, with respect to the original
14 and each copy thereof, its title, or if untitled its nature (e.g., letter memorandum,
15 telegrams, note chart, photograph, sound reproduction, computer printout, etc.), its
16 date, the identity of the author, and, where different, the sender and signer. Also to
17 be included are the identity of the person to whom the original document(s) or any
18 copy was sent, the substance and description of the document sufficient to enable the
19 party propounding these Interrogatories to request its production, the name and last
 known address of each person who has custody of the document. If it is no longer in
 your possession, custody, or control, state whether the document was lost, destroyed,
 or otherwise disposed of, and describe the surrounding circumstances, including
 your authorization and the date of such disposition. If you claim any privilege
 against disclosure of any of the above information with respect to any document,
 describe each such document sufficiently to allow the party propounding these
 Interrogatories to understand the nature and origin of the document and the reason(s)
 for the privilege claimed.

- 20 9. **Identification of Oral Communication:** "Describe," "state," "identify," or any
21 forms thereof, when used in reference to an oral communication means to state the
22 time, date, and place where the communication occurred, its nature and content, the
 identity of the individuals participating in or who heard it, and its substance.

- 23 10. **Identification of Persons:** "Describe," "state," "identify," or any forms thereof,
24 when used in reference to an individual means to state the individual's full name,
25

current business and residence addresses, present or last known business affiliation and position and dates so employed, and business affiliation and position at the time in question. When used in reference to an entity, the terms mean to state the type of entity, its official name or designation, and the principal place of business of such entity.

11. **Identification of Statement:** "Describe," "state," "identify," or any forms thereof, when used in reference to a statement means to quote or state as precisely as possible, the time, date, place, and medium through which it was published, and to identify the person or entity making the statement.
12. **Or:** For the purposes of these Interrogatories and Requests, "or" shall be construed either conjunctively or disjunctively to bring within the scope of these Interrogatories and Requests any information which might otherwise be construed to be outside their scope.
13. **Order for Relief:** Order for relief as used herein refers to the date you filed the petition under Chapter 7 of the Bankruptcy Code.
14. **Person:** "Person" means, without limitation, any and all entities including but not limited to all individuals, groups, associations, organizations, or businesses.
15. **Relating To:** For the purposes of these Interrogatories and Requests, "relating to" shall mean pertinent, relevant, or material to, evidencing, having a bearing on, or concerning, affecting, discussing, or otherwise dealing with the subject matter in any way whatsoever.
16. **Representation:** "Representation" means a statement of any nature or description, whether oral or in writing, intended to influence another person.
17. **Statement:** "Statement" includes, but is not limited to, each recordation of an interview or communication with a witness, whether by a signed writing, recording, court reporter notes or document, or otherwise.
18. **Witness:** "Witness" means the name, address, and telephone number of each persons having knowledge of discoverable matters or the item in question.
19. **Other Terms:** The singular includes the plural, and vice versa. The masculine includes the feminine and neutral genders, and the past tense includes the present tense when the clear meaning is not distorted by the change of tense.
20. **Lack of Information:** If you have no information about the subject of a particular Interrogatory or Request, or if for some reason you are unable to answer it, the response should specifically so state. No Interrogatory or Request should be left blank without some response. If you have some information but believe that further information which you know but is not available to you would also be responsive to

1 the Interrogatory or Request, you should provide the information you know have and
2 specifically state when the balance of all information will be provided. If you cannot
3 provide it all, you should provide the name of the person or entity that would be able
to provide it. The fact that a full answer cannot now be given is not a basis for you
to fail to provide such information as is currently available or known to you.

4 **21. Privilege:** Where an Interrogatory or Request calls for the information or
5 identification of a document or communication which you claim as protected by any
6 privilege or other limitation on disclosure, the answer to the Interrogatory or Request
7 should state the existence of the information, communication, or document. It should
also state each privilege or limitation claimed, with a summary of all facts and
circumstances upon which the claim is based. You should not claim a privilege
without also supplying the information above.

8 **22. State Each and Every Fact:** In providing answers to these Interrogatories and
9 Requests, you are to state each and every fact (or forms thereof) pertaining to or
10 supporting a particular event, allegation, contention, answer or set of facts. You are
11 to fully set forth, describe, and identify each and every ultimate evidentiary fact
(including but not limited to each and every, act, event, occurrence, omission,
transaction, document, communication, and person involved) which you claim or
contend constitute, support, or pertain to the particular allegation, contention,
answer, or set of facts in question.

INTERROGATORIES

13 **INTERROGATORY No. 1:** Please state your age, educational background, and your
14 employment history, including a brief summary of your particular responsibilities in each
15 position held for the last five years.

16 **ANSWER:**

17
18 **INTERROGATORY No. 2:** Please list the addresses of any residence you have
19 maintained during the five years prior to the filing of the order for relief.

20 **ANSWER:**

21 **INTERROGATORY No. 3:** Please identify all credit card accounts in your name or on
22 which you were a signor within the year prior to filing the order for relief.

23 **ANSWER:**

1 **INTERROGATORY No. 4:** From those credit cards identified in response to Interrogato-
2 ry No. 3, please identify each credit card to which you made any charges, including any and
3 all retail charges, cash advances, balance transfers or convenience checks, in the twelve
4 months preceding the filing of the order for relief.

5 **ANSWER:**

6 **INTERROGATORY No. 5:** Please identify from those credit cards listed in the preceding
7 Interrogatories each credit card to which you made any payments within the twelve months
8 preceding the filing of the order for relief, and the source of the funds used for the payment.

9 **ANSWER:**

10 **INTERROGATORY No. 6:** Were any charges, including convenience checks, cash
11 advances, balance transfers, or any other charges on any of credit cards identified in any of
12 the preceding Interrogatories incurred in or as a result of any activity related to gambling? If
13 so, please identify the date and amount of these charges and the credit card they were
14 charged to.

15 **ANSWER:**

16 **INTERROGATORY No. 7:** Identify each expert or other individuals retained by you or
17 your attorneys whom you expect to call as a witness at trial and, as to each, provide all
18 information discoverable as set forth in FRCP 26(b)(4)(A)(i).

19 **ANSWER:**

1 **INTERROGATORY No. 8:** To the extent not identified in your answers to the preceding
2 Interrogatories, please identify all individuals you intend to call as witnesses at trial, and
3 provide a brief summary of the extent of the testimony of each such individual(s).

4 **ANSWER:**

5
6 **INTERROGATORY No. 9:** Please provide the date on which you first consulted an
7 attorney or other individual with expertise in bankruptcy matters and the name of the
8 individual consulted.

9 **ANSWER:**

10 **INTERROGATORY No. 10:** Please identify the event or events which you believe did
11 and/or may have directly contributed to your decision to file a petition in bankruptcy.

12 **ANSWER:**

13 **INTERROGATORY No. 11:** Please identify by parties, court and cause number any and
14 all litigation in which you have been a party which resulted in the entry of a judgment
15 against you or any community property in which you have an interest, including any
16 litigation commenced after filing for relief.

17 **ANSWER:**

18
19 **INTERROGATORY No. 12:** Please identify by parties, court, and cause number any
20 litigation in which you are currently involved but in which a judgment has not been
21 rendered.

22 **ANSWER:**

1 **INTERROGATORY No. 13:** Identify each person who supplied part of the answers to
2 these Interrogatories and Requests for Production and indicate the part(s) for which each is
3 responsible.

4 **ANSWER:**

5
6 ***REQUEST FOR PRODUCTION OF DOCUMENTS***
7

8 **REQUEST FOR PRODUCTION No. 1:** Please produce any and all documents upon
9 which the witnesses identified in your responses to the preceding Interrogatories intend to
10 rely to lay a foundation for, establish, or prove evidence at trial.

11
12 **REQUEST FOR PRODUCTION No. 2:** Please produce any and all documents you
13 intend to offer as exhibits at the time of trial and any documents, not privileged, that you
14 may refer to in order to refresh your recollection in advance of or during trial.

15 **REQUEST FOR PRODUCTION No. 3:** Please produce copies of all monthly statements
16 from the past two years for any and all accounts identified in your answers to the preceding
17 Interrogatories.

18
19 **REQUEST FOR PRODUCTION No. 4:** Please produce all bank statements and check
20 registers for the twelve months prior to the date of filing the order for relief which are
21 related to any accounts held by you or the marital community.
22
23
24
25

Barry Friedman & Associates
 Barry Friedman
 257 St. Anthony Street
 P.O. Box 2394
 Mobile, AL 36652
 Telephone: 251-439-7400

UNITED STATES BANKRUPTCY COURT
 FOR THE MIDDLE DISTRICT OF ALABAMA

In re: ARTHUR T FLOWERS JR Debtor.	Bankruptcy Case No 06-31560 Adv. No. 0607-03009
MBNA America Bank, N.A. Plaintiff, v. ARTHUR T FLOWERS JR Defendant,	DECLARATION OF PROOF OF SERVICE BY _____

I, Barry A Friedman, declare as follows:

I am over the age of 18 and not a party to this action, and that on March 12, 2007, I sent by first class mail, postage prepaid, a true and correct copy of Plaintiff's First Set Of Interrogatories And Requests For Production To Defendants and a true and correct copy of Plaintiff's First Request For Admission To Defendant to the parties/attorneys listed below:

Arthur T Flowers Jr
 3345 Habersham Road
 Montgomery, Alabama 36109

Gail Donaldson
 Attorney at Law
 400 South Union Street
 Montgomery, Alabama 36104

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
 STATE OF ALABAMA THAT THE FORGOING IS TRUE AND CORRECT.

DATED IN MOBILE, AL THIS 12th day of March, 2007


 Printed Name: Barry A Friedman

REQUEST FOR PRODUCTION No. 5: Please produce copies of the two most recent federal income tax returns filed for both your income and the income of your spouse.

Dated:

Barry Friedman
Attorney for Plaintiff

Responses provided _____, 2007

Gail Donaldson
Attorney for Defendant

STATE OF _____)
COUNTY OF _____) ss.

Arthur T. Flowers, Jr. , being first duly sworn on oath, deposes and says: That he/she is the defendant; that he has read the foregoing answers to Interrogatories, knows the contents thereof and they are true and correct.

Arthur T. Flowers, Jr.
Defendant

SUBSCRIBED and SWORN to before me on the ____ day of _____, 2007

Notary Public in and for the State of _____
Residing at _____
My commission expires _____

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA AT MONTGOMERY

In re:

Arthur T. Flowers, Jr.,

Debtor.

MBNA America Bank, N.A.,

Plaintiff,

v.

Arthur T. Flowers, Jr.,

Defendant.

Bankruptcy Case No. 06-31560

Adv. No. 07-03009

**PLAINTIFF'S FIRST REQUEST FOR
ADMISSION TO DEFENDANT**

TO: Defendant, Arthur T. Flowers, Jr., and Defendant's attorney of record, Gail
Donaldson:

You are served with the original and one copy of the Plaintiff's First Request for Admission to Defendant pursuant to Federal Rules of Civil Procedure 36 and the Bankruptcy Rule 7036. These Requests will be deemed admitted unless, within thirty (30) days after service of these requests, a written answer or objection is addressed to the matter, and is signed by the party or by party's attorney. If objection is made, the reasons therefore shall be stated. Please type your responses in the space provided and, if necessary, add additional pages. Return the verified original of the completed Requests for Admissions to Barry Friedman, Barry Friedman & Associates, 257 St. Anthony Street, P.O. Box 2394, Mobile, AL, 36652 within 30 days after service of these requests upon you. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information of knowledge as reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Admit that you applied for and received a credit card with Plaintiff under Account XXXXXX9921 (the "Account").

RESPONSE:

Exhibit D

1 **REQUEST FOR ADMISSION NO. 11:** Admit that at the time the charges were
2 incurred, you did not have the financial ability to repay them and remit current payments
3 on all of your other unsecured debt and living expenses.

RESPONSE:

4 **REQUEST FOR ADMISSION NO. 12** Admit that at all times during the period that
5 the charges were incurred on the Account, you knew and understood that you had
6 insufficient income and financial resources to remit payments to Plaintiff and your
7 various credit accounts and pay your other living and household expenses.

RESPONSE:

8 **REQUEST FOR ADMISSION NO. 13:** Admit that by accepting and using the cash
9 advances and/or convenience checks received from Plaintiff, you agreed to be bound by
10 the terms and conditions under which the credit card was issued.

RESPONSE:

11 Requests for Admission dated this 12th day of March, 2007.

12
13 Barry Friedman
14 Attorney for Plaintiff
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Barry Friedman & Associates
 Barry Friedman
 257 St. Anthony Street
 P.O. Box 2394
 Mobile, AL 36652
 Telephone: 251-439-7400

UNITED STATES BANKRUPTCY COURT
 FOR THE MIDDLE DISTRICT OF ALABAMA

In re: ARTHUR T FLOWERS JR Debtor.	Bankruptcy Case No 06-31560 Adv. No. 0607-03009
MBNA America Bank, N.A. Plaintiff, v. ARTHUR T FLOWERS JR Defendant,	DECLARATION OF PROOF OF SERVICE BY _____

I, Barry A Friedman, declare as follows:

I am over the age of 18 and not a party to this action, and that on March 12, 2007, I sent by first class mail, postage prepaid, a true and correct copy of Plaintiff's First Set Of Interrogatories And Requests For Production To Defendants and a true and correct copy of Plaintiff's First Request For Admission To Defendant to the parties/attorneys listed below:

Arthur T Flowers Jr
 3345 Habersham Road
 Montgomery, Alabama 36109

Gail Donaldson
 Attorney at Law
 400 South Union Street
 Montgomery, Alabama 36104

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
 STATE OF ALABAMA THAT THE FORGOING IS TRUE AND CORRECT.

DATED IN MOBILE, AL THIS 12th day of March, 2007


 Printed Name: Barry A Friedman

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 06-31560-WRS
Chapter 7

ARTHUR T. FLOWERS,

Debtor

FIA CARD SERVICES NA,

Plaintiff

Adv. Pro. No. 07-3009-WRS

v.

ARTHUR T. FLOWERS JR.,

Defendant

ORDER

On June 5, 2007, Defendant Arthur T. Flowers, Jr., filed a motion for summary judgment. (Doc. 22). Plaintiff FIA Card Services shall file its response not later than July 5, 2007. Defendant Flowers may file a reply not later than July 20, 2007. The Court will take the motion under advisement on July 20, 2007. Any party requesting oral argument on the motion shall make its request in writing filed not later than July 20, 2007.

Done this 6th day of June, 2007.

/s/ William R. Sawyer
United States Bankruptcy Judge

c: Barry A. Friedman, Attorney for Plaintiff
Gail Donaldson, Attorney for Defendant

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

ARTHUR T FLOWERS, JR.
Debtor,

CASE NO. 06-31560
CHAPTER 7
JUDGE WILLIAM R SAWYER

FIA CARD SERVICES, N.A.
Plaintiff,

Vs.

Adv. Pro. No. 07-03009

ARTHUR T FLOWERS, JR.
Defendant

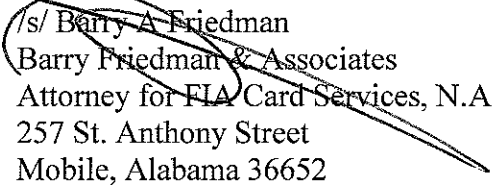
**RESPONSE TO DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT ON BEHALF OF FIA CARD SERVICES, N.A.**

Now comes Plaintiff FIA Card Services, N.A., through counsel, and responds to the Defendant's motion as follows:

1. FIA Card Services, N.A. asserts that the debtor Arthur T Flowers, Jr. used the credit card with the actual subjective intent not to pay.
 2. If a Creditor establishes that a debtor had an actual subjective intent not to pay, the debt is dischargeable because of the debtor's actual fraud.
 3. The factual issue of the debtor's subjective intent cannot be determined by a Motion for Summary Judgment.
 4. FIA Card Services, N.A. was substantially justified in commencing this action.
- WHEREFORE, FIA Card Services, N.A. asks this court to deny the

Defendant's motion because there is a question of material fact.

Dated: June 19, 2007


/s/ Barry A. Friedman
Barry Friedman & Associates
Attorney for FIA Card Services, N.A.
257 St. Anthony Street
Mobile, Alabama 36652
(251) 432-2660
bky@bafmobile.com

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

ARTHUR T FLOWERS, JR.
Debtor ,

CASE NO. 06-31560
CHAPTER 7
JUDGE WILLIAM R SAWYER

FIA CARD SERVICES, N.A.
Plaintiff,

Vs.

Adv. Pro. No. 07-03009

ARTHUR T FLOWERS, JR.
Defendant,

PLAINTIFF'S STATEMENT OF UNDISPUTED MATERIAL FACTS

1. FIA Card Services, N.A. has brought this Adversary Proceeding on the basis that the Defendant Arthur T Flowers, Jr. did not have the actual, subjective intent to repay the debt incurred through the use of the FIA Card Services, N.A. credit card.
2. That Arthur T Flowers, Jr. set forth in his schedules that he had a monthly income of \$ 2,970.14.
3. That Arthur T Flowers, Jr. set forth in his schedules that he had a monthly expenses of \$ 2,859.38.
4. That Arthur T Flowers, Jr. set forth in his schedules that he had unsecured debt totaling \$ 64,096.00.
5. That Arthur T Flowers, Jr. had \$ 110.76 each month for the payment of unsecured debt totaling \$ 64,096.00.

6. That Arthur T Flowers, Jr. set forth in his schedules that he had \$ 0.00 cash on hand when the bankruptcy was filed.
7. That Arthur T Flowers, Jr. set forth in his schedules that he had \$ 767.52 in his checking and savings account when the bankruptcy was filed.
8. That from August 16, 2006 until the entry of the Order for Relief 99 days later, the Defendant made no payments on the account.
9. The Defendant did not use any equity in real property to pay any portion of the debt.
10. On June 7, 2006, 70 days before obtaining the cash advance, the Defendant suffered cardiac arrest.
11. The Defendant is disabled and faces a serious medical condition.
12. The August 16, 2006 cash advance in the amount of \$ 4,000.00 represented 26.29% of the Defendant's income for the year 2006.
13. The Defendant set forth in his schedules that he was unemployed.

Dated: June 19, 2007

/s/ Barry A Friedman
Barry Friedman & Associates
Attorney for FIA Card Services, N.A.
257 St. Anthony Street
Mobile, Alabama 36652
(251) 432-2660
bky@bafmobile.com

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

ARTHUR T FLOWERS, JR.
Debtor,

CASE NO. 06-31560
CHAPTER 7
JUDGE WILLIAM R SAWYER

FIA CARD SERVICES, N.A.
Plaintiff,

Vs.

Adv. Pro. No. 07-03009

ARTHUR T FLOWERS, JR.
Defendant,

**BRIEF ON BEHALF OF FIA CARD SERVICES, N.A.
IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT**

INTRODUCTION

FIA Card Services, N.A. has brought this action pursuant to 11 U.S.C. §523(a)(2)(A). FIA Card Services, N.A. specifically asserts that the Defendant used the FIA Card Services, N.A. credit card without the actual, subjective intent to pay the debt thereby incurred. Actual, subjective fraudulent intent may be inferred from specific factual allegations.

STATEMENT OF FACTS

On August 16, 2006, 99 days before the entry of the order for relief, Arthur T Flowers, Jr. utilized his FIA Card Services, N.A. credit card to obtain a cash advance in the amount of \$ 4,000.00. The cash advance represented 26.29% of the Defendant's income for the year 2006. After obtaining the cash advance the Defendant made no payments on the account.

The affidavit of the Defendant sets forth that on June 7, 2006, 70 days before obtaining the cash advance, the Defendant suffered cardiac arrest. The Defendant also set forth in his affidavit that he was disabled and set forth in the schedules that he was unemployed.

The Defendant set forth in his schedules that he had a monthly income of \$ 2,970.14 and monthly income of \$ 2,859.38 which leaves \$ 110.76 each month for the payment of unsecured debt totaling \$ 64,096.00 as set forth in the schedules. .

The Defendant set forth in his schedules that he had \$ 0.00 cash on hand and that he had \$ 767.52 in his checking and savings account when the bankruptcy was filed.

The Defendant did not use any equity in real property to pay any portion of the debt.

STANDARD FOR REVIEW

Summary judgment is appropriate where "there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). We "view the evidence and all factual inferences therefrom in the light most favorable to the party opposing the motion" and "'all reasonable doubts about the facts [are] resolved in favor of the non-movant.'" *See Burton v. City of Belle Glade*, 178 F.3d 1175, 1187 (11th Cir. 1999) (quoting *Clemons v. Dougherty County*, 684 F.2d 1365, 1368-69 (11th Cir. 1982)). As we have explained, "[t]he mere existence of a scintilla of evidence in support of the position will be insufficient; there must be evidence on which the jury could reasonably find for the [non-moving party].'" In determining whether this

evidentiary threshold has been met, the trial court "must view the evidence presented through the prism of the substantive evidentiary burden applicable to the particular cause of action before it." *City of Delray Beach v. Agricultural Ins. Co.*, 85 F.3d 1527, 1530 (11th Cir. 1996) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, at pp 252-255, 106 S. Ct. 2505, 2512-14 (1986)). Simply put, "the plain language of Rule 56(c) mandates the entry of summary judgment . . . against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Id.* (quoting *Celotex Corp. v. Catret*, 477 U.S. 317, at pp. 322-323, 106 S. Ct. 2548, 2552-53 (1986)).

The statutory phrase "substantially justified" means justified in substance or in the main – that is, justified to a degree that could satisfy a reasonable person. This interpretation of the phrase accords with related uses of the term "substantial," and is equivalent to the "reasonable basis both in law and fact" formulation adopted by the vast majority of Courts of Appeals. *Pierce v. Underwood*, 487 U.S. 552 (1988)

ARGUMENT

The matter is before the Court on the Defendant's Motion for Summary Judgment. There is no dispute that Arthur T Flowers, Jr. used his FIA Card Services, N.A. credit card to obtain \$ 4,000.00 on August 16, 2006. The question is whether Arthur T Flowers, Jr. had an actual subjective intent, under the totality of the circumstances, not to pay FIA Card Services, N.A. when he obtained the \$ 4,000.00. Whether a debtor possessed an intent to defraud a creditor within the scope of § 523(a)(2)(A) is measured by a subjective standard, *see Field v. Mans*, 516 U.S. 59, 116 S. Ct. 437, 444 (1995).

Some courts have adopted a nonexclusive list of twelve facts to consider when determining whether a debtor intended to repay the debt. *Ellingsworth v A.T.&T. Universal Card Services, (In Re Ellington)*, 212 B.R. 326, at pp 334-335 (Bankr. W.D. Mo. 1997); *Citibank South Dakota, N.A. v Dougherty (In Re Dougherty)*, 84 B.R. 653, at p 657, (9th Cir. B.A.P. 1988).

These factors are: (1) the length of time between the charges made and the filing of bankruptcy; (2) whether or not an attorney has been consulted concerning the filing of bankruptcy before the charges were made; (3) the number of charges made; (4) the amount of the charges; (5) the financial condition of the debtor at the time the charges are made; (6) whether the charges were above the credit limit of the account; (7) whether the debtor made multiple charges on the same day; (8) whether or not the debtor was employed; (9) the debtor's prospects for employment; (10) financial sophistication of the debtor; (11) whether there was a sudden change in the debtor's buying habits; and (12) whether the purchases were made for luxuries or necessities. *Citibank South Dakota, N.A. v. Dougherty (In re Dougherty)*, 84 B.R. 653, 657 (9th Cir. B.A.P. 1988) (citing *Sears Roebuck and Co. v. Faulk (In re Faulk)*, 69 B.R. 743, 757 (Bankr. N.D. Ind. 1986)), abrogated on other grounds, *Grogan v. Garner*, 498 U.S. 279 (1991).

The Ninth Circuit, which decided *Dougherty, supra*, has recognized that the twelve-factor test has "been criticized because it does not consider all the common law elements of fraud, particularly misrepresentation and reliance." *Citibank (South Dakota), N.A. v. Eashai (In re Eshai)*, 87 F.3d 1082, at p 1088 (9th Cir. 1996) (citing *The GM Card v. Cox (In re Cox)*, 182 B.R. 626, 637 (Bankr. D. Mass. 1995)).

This Court has previously held:

Although a number of objective facts and circumstances may be relevant to determination of this intent, the ultimate factual issue is the debtor's subjective intent not to pay. This factual issue cannot be determined by a formulaic use of objective criterion and, critically, is quite distinct from the question of ability to pay.

FDS National Bank v Alam (In Re Alam), 314 B.R. 834, at p 841 (Bankr. N.D. Ga. 2004)

Clearly, debtors have an incentive to make self-serving statements and will rarely admit an intent not to repay. Thus, a debtor's intention _ or lack thereof _ must be ascertained by the totality of the circumstances. *Rembert v. AT&T Universal Card Servs., Inc. (In re Rembert)*, 141 F.3d 277, 280-81 (6th Cir. 1998) *AT&T Universal Card Serv. Corp. v. Feld (In re Feld)*, 203 B.R. 360, 367 (Bankr. E.D. Pa. 1996).

FIA Card Services, N.A. also contends that it was substantially justified in commencing and prosecuting this instant matter.

A position is substantially justified when it is "justified in substance or in the main'-that is, justified to a degree that could satisfy a reasonable person." *Pierce*, 487 U.S. at 565. Stated otherwise, a position is substantially justified when it has a "reasonable basis both in law and fact." *Id.*

Pierce v. Underwood, 487 U.S. 552 (1988)

To find that FIA Card Services, N.A. was substantially justified in commencing the adversary proceeding the Court must find that a reasonable person would believe that the use of the credit card by the Defendant established under the totality of the circumstances that the Defendant did not possess a subjective intent not to repay the debt.

As the Court noted in *Rembert v AT&T Universal Card Services*, 141 F3d 277 (6th Cir. 1998), a debtor's intention, or lack thereof, must be ascertained by the totality of

the circumstances. As the Court noted in *Rembert. supra*, a debtor has an incentive to make self-serving statements and will rarely admit an intent not to repay. At what point can a reasonable person say FIA Card Services, N.A. had a reasonable basis in fact and law to commence the action. It is important to remember that we are concerned with a determination that FIA Card Services, N.A.'s position that the Defendant did not have a subjective intent to repay the debt was substantially justified.

CONCLUSION:

For the reasons stated Summary Judgment is not appropriate in this matter because Arthur T Flowers, Jr.'s use of the credit card involves a question of fact as to his actual subjective intent. It is a factual question for trial as to whether Arthur T Flowers, Jr did not intend to pay the debt to FIA Card Services, N.A. when it was incurred.

Respectfully submitted.

Dated: June 19, 2007

/s/ Barry A. Friedman
Barry Friedman & Associates
Attorney for FIA Card Services, N.A.
257 St. Anthony Street
Mobile, Alabama 36652
(251) 432-2660
bky@bafmobile.com

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

ARTHUR T FLOWERS, JR.
Debtor,

CASE NO. 06-31560
CHAPTER 7
JUDGE WILLIAM R SAWYER

FIA CARD SERVICES, N.A
Plaintiff,

Vs.

Adv. Pro. No. 07-03009

ARTHUR T FLOWERS, JR.
Defendant,


AFFIDAVIT OF CUSTODIAN OF BUSINESS RECORDS

I, Yasemin Kabacaoglu, pursuant to 28 U.S.C. § 1746, declare, certify, verify and state under penalty of perjury that the foregoing is true and correct:

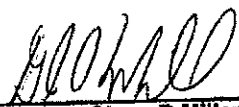
1. I am the duly authorized custodian of the business records, or an otherwise qualified person as set forth in Federal Rule of Evidence 902(11), of FIA Card Services, N.A. and have authority to certify those records.
2. I made this affidavit from my personal knowledge and I am competent to testify on these matters.
3. The record attached was made at or near the time of the occurrence of the matters set forth therein by, or from information transmitted by, a person with knowledge of those matters.
4. The record attached was kept in the ordinary course of the regularly conducted activity of FIA Card Services, N.A..

5. The record attached was made by the regularly conducted activity as a regular practice of FIA Card Services, N.A.
6. The record is a true and correct copy of the Statement of Account for the FIA Card Services, N.A. credit card or line of credit for ARTHUR T FLOWERS, JR. for FIA Card Services, N.A. account xxxx-xxxx-xxxx-9921.

Sworn to this 19th day of June, 2007.


Print Name: Yasemin Kabacoglu

Custodian of the Records for FIA Card Services, N.A.
or person otherwise qualified


Glenn D Miller
Notary Public In and
for the State of New York
My Commission Expires: 11/27/2010

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

ARTHUR T FLOWERS, JR.
Debtor,

CASE NO. 06-31560
CHAPTER 7
JUDGE WILLIAM R SAWYER

FIA CARD SERVICES, N.A
Plaintiff,

Vs.

Adv. Pro. No. 07-03009

ARTHUR T FLOWERS, JR.
Defendant,

I hereby certify that on June 19, 2007, I electronically filed the foregoing
Paper(s) with the Clerk of the Court using the ECF system which will send notification of
such filing to the following:

Gail Donaldson, Attorney for Defendant

and I hereby certify that I mailed by United States Postal Service the Paper(s) to the
following non-ECF participants:

Dated: June 19, 2007

/s/ Barry A Friedman
Barry Friedman & Associates
Attorney for FIA Card Services, N.A.
257 St. Anthony Street
Mobile, Alabama 36652
(251) 432-2660
bky@bafmobile.com

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

FIA Card Services, N.A. et al v. Flowers et al

Case No. 07-03009
BK Case No. 06-31560

NOTICE

PLEASE TAKE NOTICE that a telephone hearing will be held

on August 14, 2007 at 09:00 AM

to consider and act upon the following:

22 – Motion For Summary Judgment Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Attachments: # (1) Exhibit Exhibit A# (2) Exhibit Exhibit B# (3) Exhibit Exhibit C# (4) Exhibit Exhibit D) (Donaldson, Gail)

Each party desiring to be heard **MUST CALL** conferencing services at least 5 minutes prior to the commencement of court.

PHONE: 1-800-347-3350
CHAIRPERSON: William Livingston

You will be asked to provide the name of the chairperson and the name of the caller.

Conference calls may be amplified throughout the entire courtroom. During the conference call and especially while court is in session, please maintain proper telephone etiquette. Your cooperation is appreciated and will serve to expedite the hearing process.

- Do not place the phone on hold during the call as many companies utilize background music
- Do not conduct work such as paper shuffling or keyboard typing with an open line
- Do not address the court until called upon
- Maintain telephone silence while waiting and refrain from making unnecessary noise
- Mute telephone as applicable
- Follow conference coordinator instructions as provided

Your case will be called as soon as possible.

Dated: July 23, 2007



Richard S. Oda
Clerk, U.S. Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 06-31560-WRS

Chapter 7

ARTHUR T. FLOWERS,

Debtor

FIA CARD SERVICES N.A.,

Plaintiff

Adv. Pro. No. 07-3009-WRS

v.

ARTHUR T. FLOWERS JR.,

Defendant

ORDER CONTINUING TRIAL

It is ORDERED that the trial of this adversary proceeding presently “deep set” for September 24, 2007, is CONTINUED pending the court’s ruling on the defendant’s motion for summary judgment.

Done this 20th day of August, 2007.

/s/ William R. Sawyer
United States Bankruptcy Judge

c: Barry A. Friedman, Attorney for Plaintiff
Gail Donaldson, Attorney for Defendant

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 06-31560

Chapter 7

ARTHUR T. FLOWERS,

Debtor.

FIA CARD SERVICES, N.A.,

Adv. Pro. 07-3009

Plaintiff,

v.

ARTHUR T. FLOWERS,

Defendant.

MEMORANDUM DECISION

This Adversary Proceeding is before the Court upon the Motion for Summary Judgment filed by Defendant Arthur T. Flowers, Jr. (Doc. 22). Plaintiff FIA Card Services, N.A., opposes the motion. (Doc. 25). The Court heard the arguments of counsel on August 14, 2007. For the reasons set forth below, the Defendant's motion is GRANTED and the complaint is DISMISSED WITH PREJUDICE. The Court further finds that the position of Defendant FIA Card Services was not substantially justified and awards reasonable attorneys' fees to the Defendant. The Court will, by way of a separate document, enter judgment and will schedule filings for the allowance of attorney's fees.

I. FACTS

Arthur T. Flowers, the Debtor in the underlying bankruptcy case and the Defendant in this Adversary Proceeding, filed a petition in bankruptcy pursuant to Chapter 7 of the Bankruptcy Code on November 22, 2006. (Case No. 06-31560, Doc. 1).¹ Plaintiff FIA Card Services, Inc., alleges that it is owed \$23,367.49, and of that amount, \$4,000.00 was incurred on either August 16 or 17, 2006, which is either 97 or 98 days prior to the date of the petition. (Doc. 1). FIA alleges that the \$4,000.00 should be excepted from the debtor's discharge on the basis of fraud. FIA makes no complaint as to the remaining \$19,367.49 that it alleges is owed.

Flowers submitted an Affidavit in support of his motion, the contents of which are not disputed by FIA. Flowers states that he had a cardiac arrest on June 7, 2006, and that his heart stopped for a few minutes. (Doc. 22, Ex. 1). Flowers swears that he had always paid his bills on time and that it was always his intention to repay his debts. Id.²

Flowers filed Schedules with the Court reporting unsecured debts in the amount of \$64,096.00, none of which he reports as owing to Plaintiff FIA Card Services, Inc. (Case No. 06-31560, Doc. 1). FIA filed an Affidavit of Yasemin Kabacaoglu. (Doc. 25, Ex. 3). Kabacaoglu states that he is a custodian of records for FIA. He does not provide his business address, his title or even indicate whether he is a salaried employee or a contractor of some sort. Kabacaoglu states that the records of FIA indicate that it is owed money by Flowers. FIA does

¹ Citations to documents filed in the main case are indicated with the case and document number, while citations to documents filed in this Adversary Proceeding are indicated only by the document number.

² A search of this Court's database does not indicate any other bankruptcy filings by the Debtor.

not provide any evidence that it acquired the indebtedness owed by Flowers, or that Flowers or explain as to how it came to his creditor.

FIA did not appear at the meeting of creditors in Flowers bankruptcy case nor did it take his deposition here. There is no evidence in this Court's record that there was ever any contact between FIA and Flowers. For purposes of this motion only, the Court will assume that Flowers does in fact owe FIA the amount alleged. As the evidence does not indicate that any statements were ever made by Flowers to FIA, it follows that he could not have made a false statement. It is FIA's contention that Flowers nevertheless intended to defraud it, notwithstanding the absence of a statement. FIA's claim that Flowers intended to defraud it is based solely on the fact that it was not paid.

FIA argues that the Court should draw an inference that fraud is present based upon the fact that a \$4,000.00 cash advance was taken on August 16, 2006, which represents 26.29% of Flowers reported income for the year 2006. (Doc. 25, Ex. 2). Having calculated the percentage of Flowers' income and debt with such precision, it should be noted that FIA did not, at any time, ask Flowers what his income actually was, nor did they inquire as to the state of his health. Even if one were to presume that the use of a credit card is an implied representation as to the borrowers' intention to pay, under the facts of this case, FIA's total failure to make any effort to inquire into Flowers' personal and financial situation makes any reliance upon this implied representation both unreasonable and unjustified.

II. LAW

A. Jurisdiction

This is an Adversary Proceeding to determine whether a debt should be excepted from the Debtor's discharge, for fraud, pursuant to 11 U.S.C. § 523(a)(2). This Court has jurisdiction to hear this Adversary Proceeding pursuant to 11 U.S.C. § 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(I).

B. Summary Judgment Standard

Summary judgment is only proper when there are no genuine issues of material facts and the moving party is entitled to judgment as a matter of law. See FED. R. CIV. P. 56, made applicable to Adversary Proceedings pursuant to FED. R. BANKR. P. 7056. Rule 56(c) provides: "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." FED. R. CIV. P. 56(c). "When a party moves for summary judgment, the court construes the evidence and makes factual inferences in the light most favorable to the nonmoving party." Thomas v. Gulf Coast Credit Servs., Inc., 214 F.Supp.2d 1228, 1231 (M.D. Ala. 2002). The court does not "weigh the evidence to determine the truth of the matter, but solely determines whether there is a genuine issue for trial." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249-50 (1986).

The party seeking summary judgment "always bears the initial responsibility of informing the court of the basis for its motion, and identifying those portions of 'the pleadings,

depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,' which it believes demonstrate the absence of a genuine issue of material fact.” Lancaster v. Phillips Investments, LLC, 482 F.Supp.2d 1362, 1364 (M.D. Ala. 2007) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)). The movant can meet this burden by presenting evidence showing there is no dispute of material fact, or by showing the nonmoving party has failed to present evidence in support of some element of its case on which it bears the ultimate burden of proof. Id. (quoting Celotex, 477 U.S. at 322-23). “The plain language of Rule 56(c) mandates the entry of summary judgment ... against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial.” Johnson v. Board of Regents of Univ. of Ga., 263 F.3d 1234, 1243 (11th Cir. 2001).

The burden then shifts to the non-moving party to establish that there are material facts in dispute. Matsushita Elec. Indus. Corp. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). “If the non-moving party fails to make a sufficient showing on an essential element of [his] case with respect to which [he] has the burden of proof, then the court must enter summary judgment for the moving party.” Gonzalez v. Lee County Housing Auth., 161 F.3d 1290, 1294 (11th Cir. 1998) (quoting Celotex, 477 U.S. at 323).

C. Fraud

FIA brought this Adversary Proceeding alleging that the debts owed to it by Flowers are non-dischargeable pursuant to 11 U.S.C. § 523(a)(2)(A). Section 523(a)(2)(A) of the Bankruptcy Code provides that a discharge in bankruptcy does not discharge an individual

debtor from debts “for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by – false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor’s . . . financial condition.” 11 U.S.C. § 523(a)(2)(A). In order to prevail under that section, the creditor must prove the following elements:

- (1) The debtor made false representations with the intent to defraud the creditor;
- (2) The creditor justifiably relied on the false misrepresentations; and
- (3) The creditor sustained a loss caused by the debtor’s misrepresentations.

Fuller v. Johannessen (In re Johannessen), 76 F.3d 347, 350 (11th Cir. 1996); see also, Overly v. Guthrie (In re Guthrie), 265 B.R. 253, 258 (Bankr. M.D. Ala. 2001); Lee v. Lambert (In re Lambert), 2006 WL 3742243 (Bankr. M.D. Ala. Dec. 18, 2006). It is well established that exceptions to discharge are narrowly construed in the debtor’s favor. See Gleason v. Thaw, 236 U.S. 558, 562 (1915); Schweig v. Hunter (In re Hunter), 780 F.2d 1577, 1579 (11th Cir. 1986). As it is undisputed that no express representation was made by Flowers to FIA, it follows that the elements of a traditional fraud claim are not established.

The United States Court of Appeals for the Eleventh Circuit has not handed down a decision dealing with the dischargeability of a credit card debt in more than 20 years. First National Bank of Mobile v. Roddenberry, 701 F.2d 927 (11th Cir. 1983). While Roddenberry was decided under the Bankruptcy Act, rather than the Bankruptcy Code, its holding is still binding on lower courts as section 17a of the Act is nearly identical to section 523(a)(2)(A) of the existing Bankruptcy Code.³ Therefore, Roddenberry is still good law.

³ Section 17a [Bankruptcy Act of 1898] provides that “[a] discharge in bankruptcy shall release a bankrupt from all of his provable debts, whether allowable in full or in part, except

The Eleventh Circuit, in Roddenberry, held that:

[W]e hold that the voluntary assumption of risk on the part of a bank continues until it is clearly shown that the bank unequivocally and unconditionally revoked the right of the cardholder to further possession and use of the card, and until the cardholder is aware of this revocation. A card issuer, acting upon its own judgment, may elect to continue to extend credit; it shall be presumed to do so until clear revocation has taken place. Only after such clear revocation has been communicated to the cardholder with further use of the card result in liabilities obtained by “false pretenses or false representations” within the meaning of section 17a(a)’s [now 523(a)(2)(A)] exemption from discharge. It is more than an intentional concealment of insolvency; it is an affirmative misrepresentation that one is entitled to possess and use the card.

Id. at 932. The evidence here is undisputed. No revocation was made at any time by FIA. It follows that FIA has failed to establish a factual basis to support its claim of nondischargeability. Implicit in FIA’s argument is that Flowers knew or should have known that he could not repay the money and therefore should not have borrowed, even though it was willing to lend. Flowers filed an affidavit setting out that it was his intention to repay FIA, and that affidavit was not rebutted by any evidence. Thus, even if FIA’s legal contention was correct (which it is not), it still does not have any evidence to support its claim.

The decision of the Eleventh Circuit in Roddenberry is inconsistent with the “implied representation” theory advanced by FIA here. Indeed, FIA would place the burden of

such as . . . (2) are liabilities for obtaining money or property by false pretenses or false representations.” 11 U.S.C. § 35a(2) (repealed 1978).

Section 523(a)(2)(A) [Bankruptcy Code of 1978] excepts from discharge those debts “for money, property, services, or an extension, renewal, or refinancing of creditor to the extent obtained, by— (A) false pretenses, a false representation, or actual fraud.” 11 U.S.C. § 523(a)(2)(A).

underwriting its lending to its borrowers. If they “failed” to protect the lender, their penalty would be nondischargeability. If the theory of liability advanced by FIA were to be accepted, the idea of an exception to discharge would be swallowed up by this new duty imposed upon the debtors. Indeed, it would appear that virtually any credit card debt would become nondischargeable under this theory.

D. Attorney’s Fees

Section 523(d) shifts attorney’s fees in those instances where a creditor requests a determination of dischargeability under section 523(a)(2) and the debtor prevails. Attorneys’ fees are to be awarded to a debtor who prevails unless the position of the creditor was “substantially justified” or “special circumstances would make the award unjust.” 11 U.S.C. § 523(d). As the creditor in this case has no evidence of fraud, its position is not substantially justified. Moreover, there are no “special circumstances” present here which should preclude an award of attorney’s fees. Indeed, it appears that the Debtor here is the quintessential “honest but unfortunate” debtor who should receive the benefit of his discharge. It appears that the Debtor used his best efforts to repay his creditors and would have done so but for his extraordinarily serious health problems. The Creditor here has alleged fraud without any basis in fact, but also without making any attempt to learn the facts of this case. This is an appropriate case for an award of attorney’s fees.

III. CONCLUSION

The evidence here is not in dispute. Plaintiff FIA has no evidence of fraud, indeed it has not even attempted to obtain any evidence. It has simply alleged fraud with no basis in fact. For this reason, the Defendant's motion for summary judgment is GRANTED. Moreover, the Court will award attorney's fees. The Court will enter judgment by way of a separate document and will provide a schedule for the filing of a request for attorney's fees by way of a separate order.

Done this the 26th day of September, 2007.

/s/ William R. Sawyer
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 06-31560

Chapter 7

ARTHUR T. FLOWERS,

Debtor.

FIA CARD SERVICES, N.A.,

Adv. Pro. 07-3009

Plaintiff,

v.

ARTHUR T. FLOWERS,

Defendant.

JUDGMENT

For the reasons set forth in this Court's Memorandum Decision of this date, the Defendant's motion for summary judgment is GRANTED. The Plaintiff's complaint is DISMISSED WITH PREJUDICE. The Court will retain jurisdiction to award attorney's fees to the Defendant.

Done this the 26th day of September, 2007.

/s/ William R. Sawyer
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 06-31560

Chapter 7

ARTHUR T. FLOWERS,

Debtor.

FIA CARD SERVICES, N.A.,

Adv. Pro. 07-3009

Plaintiff,

v.

ARTHUR T. FLOWERS,

Defendant.

ORDER

For the reasons set forth in this Court's Memorandum Decision, attorney's fees are awarded to the Defendant. Counsel for the Defendant shall file an affidavit setting forth is fees within 15 days. Plaintiff may file a response within 15 days thereafter. The Court will take the matter under submission.

Done this the 26th day of September, 2007.

/s/ William R. Sawyer
United States Bankruptcy Judge

Barry Friedman
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Phone: 251-439-7400

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
AT MONTGOMERY**

In re:

Arthur T Flowers, Jr.,

Debtor.

Bankruptcy Case No. 06-31560

FIA Card Services, N.A.,

Plaintiff,

ADV. NO. 07-3009

v.

Arthur T Flowers, Jr.,

Defendant.

NOTICE OF APPEAL TO THE
UNITED STATES DISTRICT
COURT FOR THE MIDDLE
DISTRICT OF ALABAMA AT
MONTGOMERY

FIA Card Services, N.A., the Plaintiff, appeals under U.S.C. § 158(a) to the United States District Court for the Middle District of Alabama at Montgomery from the Judgment of the United States Bankruptcy Court for the District of Utah entered in this case on September 26, 2007, granting the Defendant's Motion for Summary Judgment and separate Order awarding attorney fees.

The names of all parties to the judgment, order or decree appealed from and the names, addresses and telephone numbers of their respective attorneys are as follows:

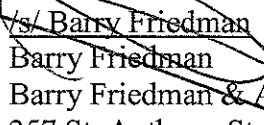
FIA Card Services, N.A.

Arthur T. Flowers, Jr.

Barry Friedman
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257 St. Anthony Street
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Gail Donaldson
Bond, Botes, Shinn & Donaldson, PC
400 South Union Street, Ste. 230
Montgomery, AL 36104

Dated: October 8, 2007


/s/ Barry Friedman
Barry Friedman
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If a Bankruptcy Appellate Panel Service is authorized to hear this appeal, each party has a right to have the appeal heard by the district court. The appellee may exercise this right only by filing a separate statement of election at the time of the filing of this notice of appeal. Any other party may elect, within the time provided in 28 U.S.C. §158(c) to have the appeal heard by the district court.

If a child support creditor or its representative is the appellant, and if the child support creditor or its representative files the form specified in §304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
AT MONTGOMERY**

In re:

Arthur T Flowers, Jr.,

Debtor.

FIA Card Services, N.A.,

Plaintiff,

v.

Arthur T. Flowers, Jr.,

Defendant.

Bankruptcy Case No. 06-31560

ADV. NO. 07-3009

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2007 I electronically filed the foregoing Notice of Appeal with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Gail Donaldson, Attorney for Defendant

And I hereby certify that I mailed by United States Postal Service the Notice to the following non-ECF participants:

Dated October 8, 2007

/s/ Barry Friedman
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